

GUIDE 1

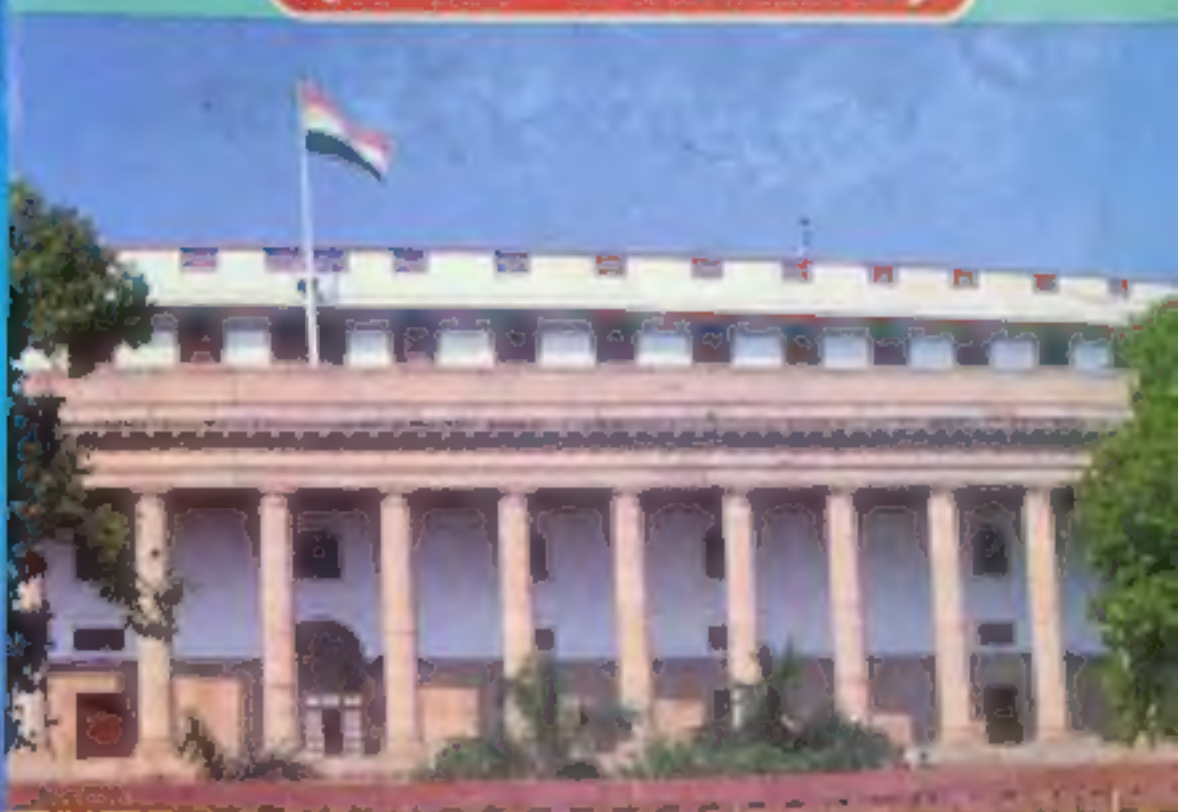
THREE YEAR DEGREE COURSE

B.A. PART - II

GOVERNMENT AND POLITICS IN INDIA

Paper-III

(NEW COURSE)



**Calcutta University, Burdwan, Kalyani,
Vidyasagar & Barasat University**

General Editors

Prof. Sarkar & Mitra

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I MAKING OF THE CONSTITUTION— THE CONSTITUENT ASSEMBLY

Q. 1. Write a note on the composition and objectives of the Constituent Assembly of India.

Or,

Discuss the role of the Constituent Assembly in framing of Indian Constitution.

Ans. One of the important political events of the present century has been discovered in the formation of a Grand Constituent Assembly to accomplish the historical task of drafting a constitution for free India. The idea of a Constituent Assembly was first inspired by the demand of Swaraj made by the Indian National Congress in its Calcutta Session in 1906. In 1922, Mahatma Gandhi put forward the idea (in Young India) that the future of the country should be determined by the freely chosen representatives of the nation. Again, in the Lucknow Session (1930) of the Congress, the demand for the establishment of a sovereign Constituent Assembly was boldly emphasised. The same demand was further raised by the Provincial Legislatures under the government of India Act, 1935 where the Congress had a majority. In 1938, Jawaharlal Nehru said —“The National Congress stands for independence and democratic state. It has proposed that the constitution of Free India must be framed without outside interference, by a Grand Constituent Assembly elected on the basis of adult franchise. As Assembly so elected will represent the people as a whole and will be far more interested in the economic and social problems of the masses than in the petty communal issues which affect small groups.” And in 1939, Mahatma Gandhi lent his powerful support to the demand and asserted that such “an Assembly can produce a constitution indigenous to the country” (Harijan). But the British government did not pay any heed to it.

It was during the second world war and under the stress of International conditions that Sir Stafford Cripps—an important member of Churchill's war cabinet—was sent over to India, but

the Cripps' offer for setting up a body for making the constitution was rejected by the Indian political parties. However, after the second world war, the British Labour Ministry categorically admitted the right of Indians to frame their own constitution. And it was Prime Minister Attlee's initiative which paved the way for the creation of a Constituent Assembly by the recommendations of the Cabinet Mission (May, 1946).

The Proposals of the Cabinet Mission were accepted by the major political parties and they were prepared to join in the elections of the Constituent Assembly with a view to framing the constitution of a free, united and democratic India. And the elections to the Constituent Assembly took place in July, 1946. The members of the Grand Assembly were elected on communal basis indirectly by the Provincial Legislative Assemblies (under the Act of 1935) by the method of proportional representation and single transferable vote. The Constituent Assembly thus created had 389 members in all (Congress 208, Muslim League 73, Princely States 93 and others 15). In this way, many top ranking Congress and Muslim League leaders, eminent jurists, administrators and statesmen drawn from all walks of life were elected to the Grand Constituent Assembly. However, the Constituent Assembly was not a sovereign body. Its authority was limited both in respect of basic principles and procedure by the Cabinet Mission plan. Again, the Muslim League boycotted the Constituent Assembly. Meanwhile the situation in the country deteriorated seriously. Communal riots broke throughout the country and the whole situation culminated in the sad partitioning of the United India by the Mountbatten plan of June, 1947.

With the partition and independence of the country on 14-15 August 1947, the Constituent Assembly (minus the representatives of the Muslim League) could be said to have become free from the fetters of the Cabinet Mission plan, it became a fully sovereign body and the successor to the British Parliament's plenary authority and power in the country.

The Constituent Assembly duly opened on the 9th December, 1946 under the Chairmanship of Dr. Sachchidanand Sinha, the eldest member of the Grand Assembly. Two days later (December 11, 1946), Dr. Rajendra Prasad was elected its permanent chairman. It was truly a unique occasion in India's constitutional

history. For Jawaharlal Nehru personally, it was a day of fulfilment, a cherished dream came true. The method which the Constituent Assembly adopted was to lay down first its objectives. This was done in the form of historic Objectives Resolution moved by Nehru on 13th December, 1946. The beautifully worded draft of the Objectives Resolution cast the horoscope of the sovereign Democratic Republic that India was to be. The Resolution envisaged that—all power and authority are to be derived from the people—Units to be given autonomy—citizens to be granted justice, liberty and freedoms and also equality before law—minorities and backward people to be provided with adequate safeguards etc. Thus the Objectives Resolution gave to the Constituent Assembly its guiding principles and the philosophy that was to permeate its tasks of constitution-making and it was finally adopted by the Grand Assembly on January 22, 1947.

On the basis of the Objectives, the Constituent Assembly formed a number of committees to deal with different aspects of the problem of framing the constitution. These included the Union Constitution Committee, the Union Powers Committee and the Committees on Fundamental Rights, Minorities etc. Some of these Committees were headed by either Nehru or Patel to whom the president of the Grand Assembly gave the credit for working out the fundamentals of the constitution. The committees worked hard in a business-like manner and produced valuable reports. After a general discussion of the reports of the said committees, the constituent Assembly appointed a Drafting committee to prepare a Draft constitution under the chairmanship of the eminent lawyer Dr. B. R. Ambedkar on August 29, 1947. The Drafting Committee embodied the decisions of the constituent Assembly with alternative and additional proposals in the form of a Draft Constitution of India and finally discussed its provisions clause by clause. And the Constituent Assembly finally enacted the constitution on November 26, 1949 when the constitution of free and independent India was signed at an impressive ceremony. Some provisions of the constitution like citizenship, elections etc. were brought into operation at once but the rest of the constitution came into force on January 26, 1950. The original constitution (framed by the Constituent Assembly) is a voluminous document containing 395 Articles and 8 Schedules.

Although the Founding-Fathers of our constitution borrowed many of the constitutional provisions from the leading foreign constitutions (England, America, Canada, Ireland etc.), they have tried to make the Indian constitution a document which is most suitable to the Indian conditions and environment. According to Jawaharlal Nehru—"In any event whatever system, of government we may establish here must fit in with the temper of our people and be acceptable to them." We are to note that the Constituent Assembly was a one-party body in an essentially one-party country. The Grand Assembly was the Indian National Congress and the Congress was India.

2

PREAMBLE AND FEATURES OF THE CONSTITUTION

Q. 2. What are the basic philosophical principles underlying the preamble to the Constitution of India ?

Or,

What is a Preamble ? Discuss the nature and objects (or ideals) of the preamble of the constitution of India.

Ans. A Preamble is an introduction to the constitution. It walks before the constitution and tells the source, the objects and contents of the constitution. In *Kesavananda Bharati case* (1973), the Supreme Court ruled that the preamble is an integral part of the constitution. It contains the basic structure or framework of the constitution. Thus the preamble can be amended in the manner provided for amending other parts of the constitution. For example—three new terms Socialist, Secular and Integrity have been added to the original text of the preamble by the 42nd Constitution Amendment Act of 1976. Hence, the Preamble is justifiable. Again, the preamble has great significance. For, it is only in the light of the preamble that the laws of the constitution can be better understood. Moreover, the preamble may be consulted to solve the ambiguity, if any, in the provisions of the constitution. For instance, the expression "Social Justice" embodied in our preamble has enabled the courts to uphold laws protecting the interests of the weaker sections of the society.

The philosophical postulates of the Indian constitution have been laid down in its preamble. It is patterned on the lines of the Objectives Resolution moved by Pandit Nehru in the Constituent Assembly. The preamble resolves to constitute India into Sovereign, Socialist, Secular, Democratic Republic and it professes to secure to all its citizens Justice, Liberty, Equality and Fraternity.

The fundamental ideas or features as enshrined in the Preamble of our constitution are analysed below :

(a) Source of the constitution (Popular Sovereignty)

The Preamble to the Constitution of India begins with the words—"we, the people of India". This expression emphasises three cardinal points : (a) the people of India are the source of

authority and the ultimate sovereignty is vested in them : (b) the Founding Fathers of our constitution were the real representatives of the people and (c) our constitution is founded on the consent of the people of India. In one word, the constitution of India is enacted by her people and they have given to themselves this constitution.

(b) Nature of the Indian Polity

According to the Preamble, India is a sovereign, socialist, secular, democratic and republican state.

Sovereign : The term "sovereign" implies that India as a nation does not owe allegiance to any internal or external powers. India is independent in her dealings with foreign powers and she enjoys equal status in the world community with other independent nation-states. India continues to be a member of the Commonwealth of Nations or the United Nations as a voluntary affair without compromising her sovereignty.

Socialist : Seeking to establish a positive social welfare state, the 42nd constitutional Amendment of 1978 has included the word socialist to the Preamble. To the then Congress Government led by Sri. Indira Gandhi, the mere nationalisation of industries does not mean socialism. India has her own brand of socialism. It seems to us that the Government intends to wipe out poverty, increase production, reduce disparities between different classes, or modernise the economy etc.

Secular : Also the 42nd constitution Amendment Act (1978) has inserted the word "secular" in the preamble. Our state is secular because it shows equal respect for all religions. That is, the state is wholly detached from religious dogmas and activities and thus neutral in religious matters. This is the reason that the constitution guarantees to every person (born or alien) the right freely to profess and propagate religion. Moreover, the state is not allowed to utilise its resources for the propagation of any particular faith or creed.

Democratic : India is a "democratic" State. Here the indirect and parliamentary norms of democratic government are practised in the constitutional and political systems of the country. For example, the president of the Indian Union and the Governors of states are the constitutional figureheads. They act on the advice of their council of Ministers responsible to the Lok Sabha and the Vidhan Sahbas respectively and the members of which are

elected on universal adult franchise. Moreover, our constitution ensures on the citizens some fundamental rights considered as an essence of India's democratic system. Besides the political concept, its social and economic aspects have also promised the prohibition of social discrimination and economic exploitation on grounds of race, caste, religion etc.

Republic : The term "Republic" in the Preamble means that supreme power rests in the people and their elected representatives. There is no hereditary element in our republican form of governmental system. Rather we have an elected head of the state e.g., the President. Again the word republic signifies that every office of the state, from the President down to the ordinary service, is open to all citizens irrespective of caste, sex, religion etc.

(c) Basic Objects or Ideals of our Republic :

The Preamble states the basic objects or ideals for which the Indian Republic exists. These are : Justice, Liberty, Equality and Fraternity.

Justice : Justice has been given a prime place in the preamble. Our constitution makers have wanted to make the democratic India a welfare state committed to the ideal of socio-economic justice to be obtained in a democratic way by the rule of law. Hence, if political justice is to have any meaning for the masses of India, it is essential that socio-economic justice be achieved. The relevant constitutional provisions are : prohibition of social discrimination, absence of economic inequalities, guarantee of one man, one vote etc.

Liberty : The preamble to our constitution lays emphasis on liberty in the positive sense. Citizens enjoy freedom or liberty in the spheres of speech, expression, and thought. Besides a person has freedom to believe in religious tenets of any sect or community.

Equality : The Preamble also proclaims its faith in the doctrine of "equality". It speaks of equality of status, that is, equality before the law or equal protection of laws. Again, equality of opportunity is not limited to public services but covers opportunities in all social, political and economic affairs.

Fraternity : The ideal of fraternity ensures the dignity of the individual and the unity and integrity of the nation. It has been wished that India, being a unity in the midst of diversity, becomes a nation of different peoples assimilated into a organic whole

by stressing common brotherhood and abolishing untouchability.

The Preamble is the precious part of the constitution. It is at once buoyant and stirring. It is unrivalled both in expression and ideals. Thus the preamble is the soul and basic structure of the constitution. Parliament has no power to amend its framework. In short the preamble is a superb, prose-poem nay, it is perfection in itself. The Constituent Assembly has undoubtedly accomplished a task of tremendous magnitude.

Q. 3. Explain the various sources of the constitution of the Indian Republic.

Ans. The Indian constitution is a unique document as it embodies the best ideals of the leading constitutions of the world. An attempt has been made to blend the American federal system with the British Parliamentary system. The constitution of India is a final amalgamation of the features of the leading countries which best suited the needs of our country. Among the chief sources of the Indian constitution, the following are the most important :

[1] Government of India Act, 1935 :

Broadly speaking, three-fourth of India's present constitution is based upon the 1935 Act of the British India. It is said, "Both in language and substance, the new constitution is a close copy of the Act of 1935 and its description as a replica of this Act is not correct." The principle of federalism has been borrowed from the Government of India Act of 1935. The Threefold distribution of powers between the union and the states, the President's powers of proclaiming national and constitutional emergencies and the administrative relations between the centre and the states etc. bear close resemblances to the relevant provisions of the 1935 Act. Hence it is usually stated that Indian constitution is rooted in the past.

[2] The Constitution of England :

The constitution of India has borrowed many provisions of the English constitutional system in her governmental machinery. For examples—the President of India is a prototype of the Queen in Great Britain. The Indian Prime Minister like his British counterpart is the key-stone of the cabinet arch. The Cabinet system of India is modelled on the English system of Cabinet government. In our parliamentary democracy, the Lok Sabha is more powerful than the Rajya Sabha, our upper House is as the

case in England. Moreover several of the conventions of the British constitution such as the collective responsibility of the ministry to the lower House and the privileges of its members etc. have been given statutory recognition in the constitution of India.

[3] The constitution of America :

The Founding-Fathers of the Indian constitution have also been greatly influenced by the constitution of the U. S. A. For examples, the fundamental rights incorporated in our constitution are inspired by the constitution of America. The inspiration for federation has been derived from the U. S. A. But our centre is strong as that of the Canadian federation. Our provinces (in British India) are known as states after the American constituent states. The Indian Supreme Court bears the stamp of the Supreme Court of America. The concept of judicial review has been borrowed from the American Supreme Court with a few modifications.

[4] Debates of the Constituent Assembly :

The debates of the Constituent Assembly form the original source of India's Constitution. It is through the proceedings of this Grand Assembly that we can peep into the ideas and feelings of the Constitution makers. Even today our administrators, legislators and the judges refer to the proceedings of the Assembly.

[5] The Former Soviet Constitution :

The constitution of India has enlisted a new chapter (part IV A) on the Fundamental Duties of the citizens which have been borrowed from the Former Soviet Constitution (1936 Stalin Constitution).

[6] The Canadian Constitution :

It is on the Canadian federal system that the federation envisaged in our constitution has a very strong centre and which has made many critics feel that India is over-centralised.

[7] The Constitution of the Irish Republic :

In the Indian constitution, the doctrine of proportional representation and single transferable vote related to the Presidential election and also the directive principles of state policy have been borrowed from the Irish constitution.

[8] The Constitution of the South Africa.

The two methods of amendment of India's Constitution enshrined in Article 368 are similar to those of the constitution of the South Africa.

Although the Founding-Fathers of our constitution have borrowed many of the constitutional provisions from the leading foreign constitutions (England, America, Ireland, Canada etc), they have tried to make the Indian constitution a document which is most suitable to Indian conditions and environment. According to *Pandit Nehru*, "In any event, whatever system of government we may establish in Indian administration must fit in with the temper of our people and be acceptable to them."

Q. 4. Explain the fundamental characteristics of the Indian Constitution.

Or,

Describe the basic features of the Constitution of India.

Ans. The Constitution of India is the result of the deliberations of the Constituent Assembly, a representative body of the Indian citizens established in 1946 under the Cabinet Mission Plan. The constitution of India has taken many of its distinctive features from the leading Constitutions of the world (e.g. Great Britain—Parliamentary democracy; America—fundamental rights and the concept of judicial review; Canada—centralised federation; Ireland—norms of Presidential election and directive principles of state policy etc). It has been pointed out that the constitution of India is not merely a constitution but also a detailed legal code dealing with all important aspects of the constitutional and administrative systems of the country.

The basic features of India's constitution are explained as follows:—

[1] The written constitution of the Indian Republic has come into force on the 26th January, 1950. It is the bulkiest written constitution in the world. At present, it has 405 Articles, 13 Schedules and about 80 Amendment Acts. It is a comprehensive document which contains a detailed description of the legislative, executive and judicial branches of the Union and State Governments. Besides, our constitution enlists matters such as fundamental rights and directive principles, minority's safeguards, elections, citizenship, public service commissions etc. On account of these facts, our constitution has been described as "lawyer's paradise". But the constitution of India has a large number of customs and usages. For examples—selection of the Prime Minister from the Lok Sabha, the impartiality of Speaker's office, resignation of the Ministry due to the lack of confidence of the popular house etc.

[2] India is federal state though the constitution describes it as a "Union of States", the expression taken from the Preamble of the Canadian federal constitution. Our federation is characterised by the dual polity, supremacy of the constitution, the division of powers between the Union and the States and the supremacy of the judiciary, i.e. the Supreme Court with power of judicial review. But the Indian federation has some peculiar features—overriding powers of the Union Government, single citizenship, appointment and dismissal of State Governors by the Union emergency provisions etc. Thus the Indian federation is called the quasi-federal or the centralised federation.

[3] The Preamble to the constitution declares India as a sovereign, socialist secular, democratic and republic. The two words "socialist" and "secular" have been inserted to the preamble by the 42nd Constitution Amendment Act [1976]. In our democracy, the supreme power rests in the people and their elected representatives. The President, the highest office of the state is elected. The preamble also ensures the ideals of justice, liberty, equality and fraternity to achieve the desired goal. Its object is to reconcile the development of human personality with the welfare of the society.

[4] The constitution of India has adopted many of the principles of the English Parliamentary practice. The President and the Governors are mere constitutional heads. They enjoy formal powers and act on their respective council of Minister responsible to the legislature and responsive to the public opinion. In our parliamentary democracy, one finds the supreme control of the Prime Minister or the Chief Minister and his political colleagues over the administration of the union or State as the case may be.

[5] The Indian Constitution contains a list of fundamental rights (Part III) and fundamental duties (Part IV A). The fundamental rights include the right to equality, the right to freedom, the right to religion, the right to constitutional remedies etc. They are called fundamental because they are justifiable. The rights be enforced if they are violated. Further, 42nd Constitution Amendment Act (1976) has added a new part named as fundamental duties which include duties to abide by the constitution, uphold the sovereignty and integrity of the country, defend the country, promote harmony and the spirit of common brotherhood amongst people etc.

(6) In order to meet the dynamics of an expanding society the Indian Constitution has been made quite rigid and partly flexible. Article 368 of the constitution deals with the process of its amendment. It allows the Constitution Amendment Bill originates only in the Lok Sabha. Besides most of the constitution amendments—e.g. fundamental rights and directive principles—require the approval of two-thirds majority in Lok Sabha and Rajya Sabha coming separately. Only in cases of amendment to the federal provisions—e.g. election of the President, division of powers between the union and the states of the constitution, the consent of Parliament and half of the State Legislatures is required.

(7) The directive principles are a novel feature of our constitution. They seek to establish social and economic democracy in India. The directive principles are the instruments of instructions which should guide the conduct of the Union and the State Governments. Some of the important principles are: right to work, right to the public utility services, free and compulsory primary education, fair distribution of wealth, it is to be noted that the directive principles are not enforceable in a court of law. They have been described as 'aspirational principles' of the constitution. Yet they are basic values and fundamental to the governance of the country.

(8) In India, Constitution the Supreme Court possesses the power of judicial review. The Supreme Court is the interpreter and guardian of the constitution. It decides the disputes between several governments and upholds the constitution. The Supreme Court has the power to declare void the acts of the union or state governments are prohibited by the constitution. In *Kesavananda Bharati v. State of Madras* (1973) and *Munshi v. Mulla* (1980) cases, the Supreme Court has ruled that even an amendment sought to damage the basic structure (federalism, or republicanism, or secularism, or the constitution) can be declared null and void.

(9) The constitution of India aims to establish a secular state. Our state is not wedded to any particular religious dogma or creed. It allows equal freedom of faith and worship to all. In short, our constitution guarantees freedom of conscience to all irrespective of their beliefs and practices.

3

FUNDAMENTAL RIGHTS, DIRECTIVE PRINCIPLES, AND FUNDAMENTAL DUTIES

Q 1. Discuss the nature and characteristics of Fundamental Rights as enshrined in the Constitution of India.

Ans. One of the distinctive features of the Constitution of India is that it guarantees to the citizens some social, political and economic rights. In a democratic state like India, no individual or institution has been self-declared these rights. These rights are called fundamental, because they help to enrich individual personality. The preamble of our constitution also emphasises the dignity of the individual. The words of *Jaiho*, "because a man's birth right." The fundamental rights have been described as the corner stone of the constitution of India and they constitute the bed-rock of our democracy. It is said that the fundamental rights set out in the constitution itself the most elaborate declaration of human rights ever issued by any state in our democratic political world. The fundamental rights are a declaration of the government and a government by the will of law where the individual will be free to exercise their freedom. They are at reconciliation of individual freedom with state authority. The fundamental rights are absolute and they are exercised by the individual for the good of the society. At the same time the government does not interfere in normal times in those rights. The fundamental rights also serve as a check on legislative despotism. They protect the interests of the minorities and provide a check on democratic excesses of the majority. In India the fundamental rights ensure the equality of citizens before law and also profess to secure to them the freedoms of speech, expression, assembly and association. No person can be deprived of his life or personal liberty except in accordance with law. Minorities are allowed to profess their own religion and speak their own language and culture. Again, the fundamental rights not only protect the individuals and minority communities from arbitrary State action but also against the control of excessive individuals. Thus the fundamental rights aim at creating a social order in which all citizens can lead a life of freedom.

(5) During the period of a proclamation of national emergency the citizens' right in directions of speech, expression and assembly etc. is suspended and the President or, special order can also suspend other rights. Again, the President of India may declare that the right of a citizen to move the Supreme Court for the enforcement of any of his fundamental rights shall be inoperative when a proclamation of national emergency is in operation.

Q. 6. Summarise the fundamental rights guaranteed to the citizens by the constitution of India. Are these rights absolute?

Or

Enumerate the Fundamental Rights mentioned in the Constitution of India.

Ans. One of the distinctive features of the Constitution of India is that it guarantees to the citizens certain social, political and economic rights. It is a democratic State, no individual can flourish his self without these rights. These rights are affected by the government in cases that are necessary for the development or preservation of citizens. These rights cannot be arbitrarily subjected to the whims of the government. The Supreme Court protects the fundamental rights of citizens.

The fundamental rights as enshrined in the Constitution of India, may be described below:-

1. **Right to Equality.** The Constitution of India has down that all persons are equal before the law. They are given equal protection of law. It means that the government officials and the private citizens are subject to the ordinary law and in the ordinary courts. Against the State, no one can make any discriminating between the citizens on grounds of religion, caste, sex, place of birth. The citizens also enjoy equality of opportunities in matters of public employment. The constitution abolishes untouchability. It prohibits any form of discrimination on grounds of religion, caste, sex, place of birth. The Constitution also requires that no one can be subjected to any form of discrimination on grounds of religion, caste, sex, place of birth. The Constitution also requires that no one can be subjected to any form of discrimination on grounds of religion, caste, sex, place of birth. The Constitution also requires that no one can be subjected to any form of discrimination on grounds of religion, caste, sex, place of birth.

2. **Right of Freedom.** The citizens of India have the right (a) of freedom of speech and expression, (b) in assembly peacefully and without arms, (c) to form associations or unions, (d) to

move freely throughout the territory of India, (e) to reside or settle down in any part of India, (f) to practice any profession and to carry on any lawful trade or business.

But these freedoms are subject to limitations. The State can impose reasonable restriction on grounds of security, integrity and sovereignty of India, public order, decency or morality, contempt of court etc.

The Constitution lays down that no person shall be deprived of his life or personal liberty except in accordance with a procedure established by law. This implies immunity from arbitrary action of the executive and also a right to appeal to the higher courts against illegal conviction. The Constitution further declares that no citizen shall be detained without trial. He must be informed of the grounds for arrest. He has the right to consult a lawyer of his own choice. He must be produced before the nearest magistrate within 24 hours. A person detained under the Preventive Detention Act has the right to be informed of the charges for which he is detained. He cannot be detained in custody for more than two months. If the Government wants to extend the period, it shall refer the matter to an Advisory Body consisting of persons qualified to be appointed as the judges of the High Court.

3. **Right against Exploitation.** The Constitution of India prohibits trade in human beings and forced labour. But the State may impose compulsory service for public purposes such as war, construction of roads etc. The Constitution also lays down that no child below the age of 14 years shall be employed to work in any factory or mine.

4. **Right to Freedom of Religion.** In India the State has no religion of its own. The Constitution grants to every person the right of freedom of belief, faith, conscience and worship. Every person has the right to practice, profess and propagate his own religion. Every religious community has the freedom to conduct its religious affairs. Thus India has become a secular state.

5. **Cultural and Educational Rights.** The Constitution empowers the citizens of India to preserve their own language and culture. The State cannot make any discrimination on grounds of religion, or language against any citizen seeking admission into any educational institution maintained out of state funds. The religious authorities have the right to establish and administer

educational institutions of their own. The State is not empowered to make any discrimination against any educational institution in matters of giving financial assistance to it.

16. Right to Constitutional Remedies. Every person has the right to move the Supreme Court or the High Court for the protection of his rights. And the Supreme Court or the High Court may issue writs in the name of Honours Corpus, Mandamus, Prohibition etc. for the enforcement of the fundamental rights of justice. The Supreme Court can declare an act of legislative or municipal authority void if it abridges or takes away any of the rights conferred by the Constitution of India upon the citizens.

The fundamental rights guaranteed by the Constitution of India are not absolute. No individual State grants absolute rights to citizens. Absolute rights are meaningless. The fundamental rights of the citizens of India are subject to certain limitations.

17. Partial right is empowered to guarantee the fundamental rights in their application to the members of the Armed Forces.

18. When equal law is in operation in any part of India, no authority can wholly or partially discriminate against any class on the ground of caste.

19. The right to freedom of a proclamation of national emergency subjects rights to free movement, speech and expression, freedom of trade, association, freedom of assembly peacefully etc. are suspended.

20. The President of India may declare that the right to move the Supreme Court or a High Court for the enforcement of the fundamental rights well as suspensive when a proclamation of national emergency is in operation in India.

Q. 7. Discuss the nature and extent of the Right to Equality as guaranteed by the Constitution of India.

Ans.

Explain and comment on the Right to Equality recognised in the Indian Constitution.

Ans. Equality is one very basic desire of man. It is described as the essential attribute of humanity. Man is naturally no man can develop his individuality. He cannot enjoy a free and happy life. Equality is the basic right which is guaranteed to all species of human beings. This is the reason that the Right to Equality has been given the first place in the list of Fundamental Rights of the citizens of India.

The Right to Equality mentioned in the preamble is guaranteed under Articles 14, 15, 16, 17, 18 of the Constitution of India. Art. 14 states that the State shall not deny to any person equality before the law or equal protection of laws within the territory of India. In other words, all persons are equal in the eye of law and they are also entitled to enjoy equal protection of laws within the territorial jurisdiction of India.

Apparently it seems to us that there is no difference between the terms "equality before the law" and the equal protection of laws." But in reality they convey different meanings. Equality before the law is used in the negative sense. It means the absence of special privileges. But the equal protection of laws is a positive concept. It signifies that all persons should be treated equally in similar circumstances. In other words, the State should not make any discrimination between one person and another.

The expression "equality before the law" is taken from Derry's Theory of Rule of Law. Applying this concept in India, we may say that every person is subject to the ordinary law and to the ordinary courts of the country. But there are certain exceptions. First the President of India or the Governor of an Indian State is not amenable to any court of law for exercising his functions. Secondly the President or the Governor is not subject to the criminal jurisdiction during his tenure in office.

The second part of law is taken from the Fourteenth Amendment, Article 1 of the U. S. A. Constitution which says that equal protection of laws has been assured to all citizens of the U. S. A. It means that although equals the law should be equally applied to all persons, the State should not favour any particular class. It also empowers the legislature to classify persons on the basis of which they may be taxed. The classification must not be arbitrary. It should be reasonable.

The third constitution deals with prohibition against discrimination. It prohibits the State to make any discrimination against any citizen on grounds only of race, caste, sex, religion, etc.

Article 15 of the Constitution is restrictive of race, caste, sex etc. It prohibits discrimination with regard to access to shops, public places, restaurants etc. But the State has the right to make any law for the reservation for women and children and also for the Scheduled Castes and the Scheduled Tribes.

Under Art. 14, all citizens enjoy equality of opportunity in matters of public employment and irrespective of their race, caste, religious etc. But there are certain exceptions: (a) Parliament may by law prescribe that residence within the state is required for a particular employment. (b) The State is empowered to reserve certain posts for backward classes of citizens and also for the Scheduled Caste and the Scheduled Tribes. (c) Appointments in connection with a religious organisation may be reserved for persons belonging to that religion.

Art. 17 provides that untouchability is abolished. Its practice is forbidden by the Untouchability Offences Act of 1955. The Act declares that no one is allowed to make discrimination against any person seeking admission to public institutions like hospitals, schools or colleges on grounds of untouchability.

Article 18, Art. 18, the State does not confer any title excepting military or academic distinction. Citizens of India are not allowed to accept any title with a foreign State without the permission of the Government of India. In this exception it may be pointed out that Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shree are not titles in the strict sense of the term. They are mere awards of decorations. The Government of India has declared recently that the holders of Bharat Ratna, Padma Shree etc. are not entitled to use them against their names.

Comment: Every citizen of India has the power to move the High Court or the Supreme Court for the protection of the right to equality. And the Supreme Court or the High Court can issue writs in the nature of habeas corpus, mandamus, prohibition etc. or the enforcement of this right. The ordinary has the power to challenge the constitutionality of legislation on the right to equality.

On the other hand, the President is empowered by the Constitution to suspend or withhold citizens to move the court for the enforcement of the right to equality during the period of National Emergency.

Q. 8. Discuss the six freedoms guaranteed by the constitution of India.

Ans.

Critically discuss the nature of the six freedoms guaranteed under Article 19 of the Constitution of India.

Ans. Freedom has been regarded as one of the important

pillars of democracy. It is essential to the fullest development of the personality of the citizens. The Preamble to the Constitution of India emphasises the freedom of thought and expression. And this has been emphatically declared under Art. 19 of the Constitution of India. This Article is regarded as the most important article in the Chapter on Fundamental Rights because it gives the 'birth' of citizens.

According to Art. 19 of our Constitution, every citizen has the right to move, settle, and expression by to assemble peacefully and without arms, to attend on association, to form or to join any association for the promotion of India, to reside or to settle in any part of the country. To practice any profession or to carry on any trade or business.

But these freedoms are not to be absolute. A democratic State like India cannot grant a complete freedom to the citizens. They are reasonable freedom of the authority of our State if the interests of the state and its citizens are not harmed. Art. 19(4) forbids to be any law which restricts the right of the people.

Article 19(2) says that the right of speech and expression, or the right to carry on expression, or news and ideas freely through the press or print or word, but it may be reasonably restricted by the law in the interest of the security of the state, sovereignty of India, public order, decency or morality, contempt of court etc.

Article 19(3) of India has the freedom to assemble peacefully and without arms or to join or to form or to carry on. But this freedom is also subject to reasonable restrictions. The State may impose limitations in the interests of the security of the state, sovereignty of India, and public order.

The Constitution of India grants to every citizen the right to move freely and to settle in any part of India. This is a right to move and to settle in any part of India. But also the State is empowered to impose reasonable restrictions on the exercise of these freedoms in the interests of the security of the state, sovereignty of India, and public order.

Article 19(4) of India has the freedom to move and to settle in any part of India. But also the State is empowered to impose reasonable restrictions on the exercise of these freedoms in the interests of the security of the state, sovereignty of India, and public order.

A citizen in lawful practise and profession or carry on any occupation or trade. This is subject to reasonable restriction which may be imposed by the government in the interest of the general public.

Certain points must be noted in connection with the freedoms of citizens guaranteed under Art. 19. Neither the executive nor the legislature is empowered to say whether the restrictions are reasonable or not. It is left to the Supreme Court to decide the reasonableness of restrictions.

The Supreme Court has held that these restrictions must be reasonable, that is to say, commensurate with the purpose for which they are laid down. *A. K. Gopalan vs. the State of Madras*.

The rights to freedom of speech, association, occupation etc. guaranteed in Art. 19 are suspended during the period of national emergency declared by the President of India.

The life, freedom of citizens can be protected from the arbitrary action of the government and not from the police or citizens.

Q. 9. Explain fully the fundamental rights as regards protection against arrest and detention under the Constitution of India. Is this right unrestricted? etc.

Ans.

Explain fully the rights to personal liberty under the Constitution of India.

Ans.

"No person shall be deprived of his life or personal liberty except according to procedure established by law" - *Article 21*.

Ans. The personal liberty or freedom of citizens is guaranteed by the Constitution of India under Articles 21 and 22.

Art. 21 of the Constitution of India declares that "No person shall be deprived of his life or personal liberty except according to procedure established by law".

It implies immunity from arbitrary action of the executive. The executive cannot interfere with personal freedom of a citizen except by the authority of law. It also gives power to protect any citizen physically or mentally without the laws of Parliament.

Under the Constitution of India, the right to personal freedom of citizens may never be absolute. It is subject to the procedure

established by law. According to L. S. Chaudhary, no person shall be deprived of his life, liberty or property without "due process of law". The American Supreme Court has the power to review the wisdom of any legislative policy by virtue of the expression "due process of law". But no such power is given to the Supreme Court of India. Our Supreme Court is to see that laws are in conformity with the provisions of the Constitution. Therefore, if the legislature enacts a law prescribing punishment for an act which seems to be no offence, the Supreme Court is not empowered to declare that law as unconstitutional.

Thus, Art. 21 does not impose limitations on the authority of the legislature. Its object is to prohibit the executive from arbitrarily infringing the personal freedom of citizens. In this respect, the Constitution of India has preferred the supremacy of the legislature to that of the judiciary.

Art. 22 also deals in detail the provision of the Constitution relating to the arrest and detention of persons. When a person has been arrested and detained under the ordinary law, he may be entitled to enjoy the following safeguards:

(a) He must be informed of the grounds of his arrest as early as possible.

(b) He must be allowed to consult a lawyer of his own choice with a view to defending himself.

(c) He cannot be detained by the nearest Magistrate without a written order. Without his orders, the period of detention may not be extended.

But the safeguards mentioned above are not applicable to persons who are detained as enemy aliens of India.

Art. 22 also deals with the Preventive Detention Act. Parliament has been empowered by the Constitution to make laws to detain a person without trial if the security of India or any part thereof requires it for the maintenance of essential services or the community.

When a person is arrested under the Preventive Detention Act, he must be advised of the grounds of his arrest. But the government may withhold certain facts in the interests of the security of India. The arrested person may be allowed to consult a lawyer of his own choice. Moreover, he cannot be detained without trial for a period not exceeding two months. If the government wants to extend the period, it shall refer the matter

an Advisory Board consisting of persons qualified to be appointed as Judges of the High Court of an Indian State.

The law of preventive detention guaranteed by the Constitution of India is undemocratic as does not exist in U.K. and U.S.A. In all times it has been criticised that it puts a greater stress on the Preventive Detention Act rather than on the personal liberty of citizens. A person arrested under the Preventive Detention Act is not entitled to enjoy the freedom of speech and expression, association etc. as laid down in Art. 19 of the Constitution.

Q. 10. Explain how far the right to personal freedom has been secured by the Constitution of India. Discuss the question with reference to the limitations imposed on the right.

Or,

Discuss the right to freedom of movement under the Constitution of India.

Ans. Freedom has been regarded as one of the important pillars of democracy. It is essential to the fullest development of the personality of an individual. The right to freedom of the citizens has been extensively guaranteed. Article 19 of the Constitution guarantees the same. The word 'freedom' intended to denote individual freedom with the welfare of the people.

According to Article 19 of our Constitution, every citizen has an right to a freedom of speech and expression, the assembly peacefully and without arms, the formation of associations, movements, unions, groups etc. throughout the territory of India, to reside or settle anywhere in the country, (i) practice any profession or to carry on any trade or business.

These freedoms are not absolute. They are reasonably restricted by the Government of India in the interests of the community at large.

A citizen has the right of freedom of speech and expression. He either writes or expresses his views and ideas freely through the press and otherwise. But it may be reasonably limited by the executive in regard to the security, integrity and sovereignty of India, public order, relations with foreign States etc. Against every citizen of India, the freedom to assemble peacefully without carrying arms. He is free to move is also subject to reasonable restrictions. The Government of the State may impose limitations on

the interests of the security and sovereignty of India and public order. The Constitution of India also grants to every citizen the right to form unions and associations in a lawful manner. This is also restricted by the government in the interest of sovereignty of India, public order and morality. Further a citizen has the right to move freely and to reside and settle in any part of India. Here also the state is empowered to impose restrictions in the interests of the general public, in the Scheduled tribes. Lastly a citizen can lawfully practise any profession or carry on any occupation or trade. However the govt. in itself may impose restrictions in the interests of the general public.

In this respect it may be pointed out that neither the executive nor the legislature is empowered to say whether the restrictions are reasonable or not. It is left to the Supreme Court to decide the reasonableness of restrictions.

Rule of Law finds a place in Art. 20 of the Constitution. No person can be arrested arbitrarily or convicted without observing proper procedure. No can neither be subjected to a penalty greater than what might have been inflicted under the law in force at the time of the commission of the offence. The other legal rules applicable to an individual are that no person can be compelled to be a witness against himself and no person can be prosecuted and punished for the same offence twice.

The personal liberty or freedom of citizens is guaranteed under Articles 21 and 22 of our democratic Constitution. Art. 21 categorically states that no person shall be deprived of his life or personal liberty except according to procedure established by law. It shields citizens from arbitrary action of the executive. The executive cannot interfere with the personal freedom of a citizen except by the authority of law. So, under our Constitution, the entire personal liberty is subject to the procedure established by law. The Article 21 of our Constitution declares that no person shall be deprived of his life, liberty or property with due process of law. The Supreme Court in the U.S.A. can review the wisdom of any executive policy. But no such power is given to the Indian Supreme Court. Our Supreme Court has to see that laws are not inconsistent with the provisions of the Constitution. So, Art. 21 does not restrict the authority of the legislature.

Art. 22 of the Indian Constitution describes, in detail, the

provisions relating to the arrest and detention of persons. When a person has been arrested and detained under the ordinary law, he must be informed of the grounds on which he is arrested as early as possible. He must be produced before the nearest magistrate within a period of twenty-four hours and also allowed to consult a lawyer of his own choice to defend himself. However, these safeguards are not applicable to persons who are for the time being enemy aliens. Again, Art. 32 of the Constitution empowers the Parliament to make laws to detain a person without trial for the security of India or any part thereof for the maintenance of essential services of the community. When a person is arrested under the Preventive Detention Act, he must be informed of the grounds of his arrest. Moreover, an arrested person cannot be detained indefinitely beyond a limit of three months. An Advisory Board consisting of judges of the High Court has reported before that period that the law of preventive detention is not in violation of the law of preventive detention in the Constitution. Art. 32 says a great deal about the Preventive Detention Act rather than the personal freedom of citizens.

It may be noted that the Government of India has the power to suspend the Fundamental Rights of citizens in the protection of public emergency. As a result, it is not possible to write in the Bill of Rights of the Constitution the fundamental rights of freedom of religion, assembly, movement, etc. guaranteed in Art. 19 are suspended during the period of National Emergency. As a result, the President of India declares when a proclamation of National Emergency is in operation, the Government of India may suspend the right of citizens to exercise the Fundamental Rights for the duration of the emergency. The suspension is laid down in Arts. 31 and 22 of the Constitution.

Q. Explain briefly the right to freedom of religion under the constitution of India.

Ans.

It is what we India is called a secular state. Discuss in this connection the right to freedom of religion guaranteed by the constitution of India.

Ans. Right to freedom of religion is the sheet anchor of a secular state. In the Indian Constitution, it does not define

the word "religion". However, the Supreme Court has observed that religion includes not only the philosophical tenets of a religious sect but also the rituals to be followed in a religious institution.

In India, the word "secularism" was borrowed from the U.S. Constitution. Though secularism has been accepted as one of the basic principles of Indian polity, there is no agreed and precise meaning of the word "secularism". Even the Founding Father of our country found it difficult to put forth a precise meaning of the term. Jawaharlal Nehru, the chief exponent of secularism in our Constituent Assembly, regretted the inability to give words. "We cannot have a secular one. The word 'secular' perhaps is not a good word. And yet for want of a better word we have to use it. A secular India does not mean a country without religion. It means the institutional separation of the state from religion and a balanced approach to all faiths. Hence, by secularism, we mean that the state is not going to make any distinction or give any special ground of religion against any person or community. It is giving any particular form of religious faith and no particular religion in the state will receive any state patronage or special status. Rather, the state gives complete toleration to all religions and adopts a neutral attitude towards all religions, and guarantees complete freedom of worship. Again, the revised Constitution (42nd Amendment) Act, 1976 has inserted the word 'secular' in the Preamble. Religion is a personal affair. The state is concerned with the relation between man and man and not with the relation between man and god which is a matter for individual conscience.

Articles 25 to 28 of the Indian Constitution deal with the right to freedom of religion. These Articles (25-28) highlight the importance which the Government of India attached to the secular character of the country since they also reflect the concern which the Government has shown for protecting the interests of the religious minorities in the country.

Freedom of Conscience and Religion (Article 25)

The Constitution of India lays down that all persons—not only citizens—enjoy the freedom of conscience and the right to profess, practise and propagate religion. It means that all persons have the freedom to express their views on their

advisable to define the term "writ" through a constitutional amendment.

Q. 12 Discuss the nature of the Right to constitutional Remedies for the enforcement of the Fundamental Rights guaranteed by the Constitution of India. When can these Fundamental Rights be suspended?

Ans. Fundamental rights guaranteed by the constitution of India are of great value because they are necessary for the full development of the personality and inherent qualities of the citizens. Hence, these rights should not be treated as mere paper principles. It should be noted that these rights have no importance unless there is a constant vigilance in case of violation of them. Under the former I.S.R. the fundamental rights of the citizens of India can be enforced through the law-courts.

Article 32 of the constitution of India, every person has the right to move the Supreme Court for safeguarding his rights. And the Supreme Court is empowered to issue writs in the nature of *habeas corpus*, *prohibition*, *certiorari* and *quo warrant* to enforce the rights of citizens. A person can also move a High Court for the protection of his rights under Article 226 of the Indian constitution. Hence, the Supreme Court is the guardian of all rights of citizens against the arbitrary action of the executive and the legislature. In short, it is the Supreme Court which protects the rights of citizens by safeguarding against the executive. It takes away the fundamental rights of citizens. The constitutional remedies have been correctly described by *Ambedkar* as the main and soul of the constitution.

Let us now discuss the various writs issued by the Supreme Court in the enforcement of the fundamental rights of citizens.

Habeas corpus. It means that no person can be detained for an indefinite period without law. The writ of *habeas corpus* is usually issued with a view to determining whether the person is legally detained or not. Under it, the arrested person is placed before the court. If the court thinks that the detention is unjust and illegal, the person so detained is released immediately.

Mandamus. *Mandamus* is an important writ. It means a command which can be issued to any public body which has refused to perform its legal duty. Such commands can be issued against the officers engaged in public duties and also the

government itself if they refuse to discharge their functions. The writ of *mandamus* can be issued for the enforcement of fundamental rights for other purposes also. But it cannot be issued against a private institution.

Prohibition. The meaning of prohibition is simple. It is a kind of command by which the Supreme Court or the High Court gives direction to an inferior court, bidding it to do certain things which is in excess of its jurisdiction. We are to note that mandamus commands activity, prohibition commands inactivity. And the writ of prohibition is issued against the judicial bodies.

Certiorari. The writ of certiorari is applied against the judicial and quasi-judicial bodies. It is used to quash an order or the decisions of the judicial authorities. Certiorari can be issued only after the order has been passed. Its object is to secure that the jurisdiction of an inferior court is properly recognised. But it has no right to strip the jurisdiction. We are to note that the writ of prohibition is preventive whereas the writ of certiorari is remedial. However, the two writs are sometimes closely wrapped.

Quo Warranto. The writ of *quo-warranto* is in some sort of an injunction. This writ gives the right to a court to enquire into the legality of the action when a person asserts to a public office or carrying out that office if no legal authority is not to be well founded. The judiciary can prevent an unlawful claimant from occupying a public office.

Limitations or Suspension of Fundamental Rights

The fundamental rights of citizens guaranteed by the constitution of India are not absolute. They are restricted by the authority of the State in many ways. Even though the fundamental rights are of great importance, still the citizens do not fully enjoy them. It is because the fundamental rights under the constitution of India are fundamental in nature only. They are over-riden by conditions which cut at the root of such rights.

We can summarise the fundamental rights granted to the citizens of India may be described below.

Under the constitution of India every citizen has the right to freedom of speech and expression. But the enjoyment of this freedom is regulated if the interests of the security, integrity, sovereignty of India, public order, morality or decency, contempt of court etc.

(4) The law providing the defence of subjects a right to enjoy the freedom is guaranteed in our constitution. The Prevention Detention Act is an indicator and evidence of our constitution. In the U.K. and the U.S.A, it does not exist in normal times.

(5) A person arrested under emergency law is entitled to enjoy certain safeguards. But these are not available to a, able to apply for the persons arrested under the NSA, KSMIA and POTA.

(6) Fundamental is enshrined in Article 32, the fundamental rights of each application are the rights of the citizens, forces.

(7) When martial law is in operation in any part of India, the Law Parliament can prohibit any government servant for any act done as the authority.

(8) During the period of proclamation of national emergency, the citizens rights of freedom of speech, expression and association are suspended or restricted. It is not our constitution at any time fully suspended.

(9) The President of India may claim that the right of citizens to move Supreme Court for the enforcement of its fundamental rights including rights to personal liberty in Article 32 will be abrogated when a proclamation of national emergency is proclaimed under Article 352.

(10) To Summarise the Directive Principles of State Policy are the guiding principles and significance in the Constitution of India.

Or,

Distinguish between the nature and character of Fundamental Rights and those of Directive Principles of State Policy.

Or,

Enumerate the "Directive Principles of State Policy" To what extent were they implemented?

Or,

Discuss the nature and importance of "the Directive Principles of State Policy" set forth in our constitution with reference to some of the Principles.

Ans. One of the essential attributes of the Constitution of India is that it contains the Directive Principles of State Policy. The directive Principles have been borrowed from the Constitution of Ireland. The Preamble to the Constitution of India declares that it is a welfare State. Its purpose is to secure to all the

citizens in a more equitable social and political justice. In a democratic polity, justice is not enough. Full and real democracy cannot be attained unless political democracy is accompanied by social and economic democracy. Thus is the reason that the Fathers of our Indian Constitution have enumerated certain Directive Principles of State Policy in the Constitution (Articles 36-43).

In India, the Directive Principles of State Policy are certain principles which the State must serve to all its citizens. It is not only for the promotion of social justice and economic welfare of the people, but also to maintain international peace and solidarity. These Directive Principles are certain instructions which the state should pursue in its administration and implementation. Here, the State means not only the central government but also the State Governments and other local authorities within India.

The Directive Principles of State Policy as contained in Arts. 36-41 may be classified into three groups.

A. *Directive Principles enjoining the ideals of the State.*

(i) The state shall strive to promote the welfare of the people by securing a social order which social, economic and political justice are secured by the national policy.

(ii) The state shall direct its policy towards securing that the ownership and control of the material resources are so distributed as best to serve the common good.

(iii) The state shall strive to secure to all workers a decent standard of living, a living wage, adequate employment of leisure and cultural opportunities etc.

(iv) The State shall raise the level of nutrition and the standard of living of its people.

(v) The state shall promote international peace and security, maintain friendly relations between Nations and encourage settlement of international disputes by arbitration.

B. *Directive Principles determining the executive and legislative policy of State.*

(i) The state shall secure a uniform civil code throughout the territory of India to the word compulsory education of children upto the age of 14 years.

(ii) development of cottage industries in rural areas.

(iii) prohibition of intoxicating drinks and of drugs except for medical purposes.

(iv) organisation of panchayats of rural areas and a separation of judiciary from the executive.

(1) *Directive principle laying down the rights of citizen*

The important rights are (a) right to work, (b) right to education, (c) right to social security, (d) right against economic exploitation and (e) right to equal pay for equal work.

Fundamental Rights and Directive Principles of State Policy: a comparative study

The fundamental Rights of citizens and the Directive of State Policy have been taken in separate parts of the Constitution of India. There are certain points of difference between the Directive Principles and the Fundamental Rights.

(1) The Directive Principles signify certain ideals which the State would always try to pursue. The Fundamental Rights on the other hand, prohibit the State from doing certain things. Thus, the chapter of Fundamental Rights imposes serious limitations upon the authority of the State. But the chapter on Directive Principles of State Policy gives instructions to the government for the realisation of its aims and objectives.

(2) The Fundamental Rights can be enforced in a court of law. According to the provisions of the Constitution Arts. 32 and 226 the Supreme Court and the High Courts are entitled to issue writs to enforce if citizens' rights against the government or officials of the government. But the Directive Principles are not enforceable in a court of law. They may be described as non-justiciable rights. A citizen cannot move the court for protection of Directive Principles.

(3) The Fundamental Rights are guaranteed by the Constitution. But the Directive Principles must be implemented by the legislation of Central Government or of the State Governments.

(4) The Supreme Court can declare a law as unconstitutional, if it takes away any fundamental rights of the citizens. But the Court has no power to declare a law as void if it goes against the directive principles.

(5) The Government is bound to protect the fundamental rights of citizens. But the government cannot be compelled to carry out the Directive Principles of State Policy. As an example, no one can compel the government to provide for a decent standard of living or for a living wage.

(6) During the period of a proclamation of National Emergency Art. 32(2) the fundamental rights of citizens as enumerated in Art.

19 remain suspended. Moreover, the President may by an order declare that the citizens have no constitutional power to move the courts for the enforcement of their rights. But the directive principles are not suspended in case of internal disturbance or external aggression.

(7) The Supreme Court has held that if there is a conflict between the fundamental rights and the Directive Principles of State Policy, the former will prevail over the latter.

(8) The Directive Principles of State Policy "have to conform and run as subsidiary to the charter of Fundamental Rights".

Unity or significance of Directive Principles of State Policy

There are some critics who opine that the Directive Principles of State Policy enumerated in Part IV of the Indian Constitution have no value and unity. They are meaningless. They are nothing but pious wishes and a collection of aims and aspirations. Some say that they are "a book of nonsense". They have no legal sanction. Government can ignore or refuse to implement these principles.

But critics are not entitled to ignore them. They would be entitled to ignore any constitution. Hence, these principles should not be regarded as a weak constitution like India.

But the chapter on Directive Principles of State Policy is not a mere appendix of the Constitution of India. They should not be considered as mere pious wishes. These principles are of basic significance and significance in the working of Indian democracy.

The Constitution of India declares that the directive principles are fundamental in the governance of the country. It is true that they have no legal status. But they have moral status.

(1) The ethical significance of these principles should not be ignored. These principles are essential in a democratic State. They also guarantee the economic welfare of the people.

(2) These principles remind the Centre and the States of their duties and responsibilities towards the citizens. The Government owes a duty of an attitude of the people. The goodness or badness of any government or the government depends upon the extent to which it follows these directive principles. Moreover, the social and political progress of India is also being reflected in these directive principles. Hence the government shall strive to realise these principles. If it fails to translate them into

reality public opinion will definitely go against the government. It has proved its strength. It is so. It is not an argument by the government. Therefore, the real sanction behind the directive principles is public opinion. All the organs of government should be guided by these principles. It has been beautifully remarked, "It cannot be said that these principles are of no use at all, even though they may not have a binding force of law. Whoever may capture the government may have to answer for them before the electorate when the next election comes."

It is a reality that the Parliament is passing the laws which are in the spirit of Article 39. It is giving subsidies in making of laws which aim at the welfare of the people. It is so. It is not an argument by the government. Therefore, the real sanction behind the directive principles is public opinion. All the organs of government should be guided by these principles. It has been beautifully remarked, "It cannot be said that these principles are of no use at all, even though they may not have a binding force of law. Whoever may capture the government may have to answer for them before the electorate when the next election comes."

Since the Constitution of India has put certain directive Principles into reality. These are as follows:

(a) The Government has nationalised certain key industries and has taken steps to bring the concentration of wealth in a few hands.

(b) The Government has nationalised certain key industries and has taken steps to bring the concentration of wealth in a few hands.

(c) The standard of living of the people has been substantially raised through the Five-Year Plans.

(d) In several States, the Government has made free and compulsory

In almost all States in India, the Panchayat Raj System has been set up in rural areas.

(f) In India, the constituent States have separated the judiciary in the various States.

(g) India has become a member of the U.N.O. in international sphere. It has adopted a policy of neutrality and to promote international peace and solidarity among the nations—big and small.

(h) In India, the Khadi and Village Industries Board, the Handloom Board, etc. have been set up by the Government of India to help the State Governments in matters of marketing, finance, etc. for the development of cottage industries in rural areas.

Q. 14. Discuss the fundamental duties of citizens of India.

Ans. Every citizen of the state exercises of their rights and freedoms is accompanied by the performance of their duties and discharge of their duties is a condition of India. Forty second Amendment to the Constitution has given every citizen certain fundamental duties which are enumerated as follows:

It shall be the duty of the citizen of India—

(a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem,

(b) to pay taxes and follow the public ideas which inspired our national struggle for freedom,

(c) to defend and protect the sovereignty, unity and integrity of India;

(d) to render national service when called upon to do so;

(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending relations, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;

(f) to value and preserve the rich heritage of our composite culture;

(g) to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for the living creatures;

(h) to develop the scientific temper, humanism and the spirit of inquiry and reform;

(4) to safeguard public property and to avenge violence ;

but he should also be active in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

So, rights and duties are closely related. We should have a set of individual duties as antithesis of the fundamental rights in the Constitution. Like the Russian Constitution of 1936, the Indian Constitution also enshrines a list of duties. The fundamental duties enable the citizens to secure participation in the political system more effectively. In India, love for the Motherland is very much necessary and the fundamental duties are intended to evoke love for the Motherland and respect for the Constitution and laws of the country. In short, the Indian citizens not only enjoy certain rights, but also perform their duties towards the state.

4

NATURE OF FEDERALISM AND CENTRE-STATE RELATIONS

Q. 1st Discuss the nature of Indian Federation.

Or

Discuss the nature of federal system of Government existing in India.

Or

Examine the statement "The Constitution of India is more unitary than federal."

Or

The present Constitution of India has been described as a "flexible federation." What is meant by this expression? Discuss in this Constitution the peculiar features of the Indian federation.

Ans. India is a federal State. But the word "federation" has not been used anywhere in the Constitution of India. Art. 1 of the Constitution states that India is a union of States. According to Dr. Ambedkar there are two advantages in using the expression "Union of States". *Firstly*, the Indian federation is not the result of an agreement by the States to join in federation. It implies that the States were not sovereign before the formation of the federation. *Secondly*, the constituent States cannot secede from the federation. In short, the Indian federation has been formed on a Canadian model. At present, our federation consists of 28 States and 6 Union Territories. Besides Delhi is a National Capital Territory and not a Union Territory.

It has been said that a federation aims to reconcile national unity and power with the maintenance of the rights of States. A true federation has certain features viz. *(i)* dual government, *(ii)* distribution of powers, *(iii)* supremacy of the Constitution, *(iv)* supremacy of the judiciary.

In theory, all these characteristics are present in our federation. In India there are two sets of government, the Central Government and the State Governments. The States are not the mere agents of the Centre. Secondly, the Constitution of India is the supreme law of the country. The Centre and the States derive their

Union of Indestructible States" it implies that the federal government of U. S. A. is not competent to change the boundaries of a State without its consent. In India, the Union is destructible. But the States are indestructible. Our Parliament is empowered to alter the boundaries and names of the States without their approval.

10. The Principle of equal representation of States is a novel feature of the U. S. federation. The constituent States of America have equal status. As for example—each state, big or small, sends two representatives to the Senate irrespective of its territory, population and wealth. But in India, the Constitution has not recognised this principle. The members of the Council of States (Rajya Sabha) are elected on the basis of the population. For example, the Province sends 35 representatives to the Council of States, and the total number of members of West Bengal to the Council of States is only 16.

11. The U. S. federation is characterised by double citizenship. In the U. S. A. a person is a citizen of the Union. He is also a citizen of the State in which he resides. But the Citizenship of India is wider for a single citizenship, viz. the citizenship of India. There is no separate citizenship for the States. All persons are citizens of India. No one can be a citizen of West Bengal or Orissa. Single citizenship enables India to establish a strong feeling of national unity among the citizens.

12. In the U. S. A. there is a dual system of judiciary viz. the federal judiciary and the state judiciary. The Federal Courts and the State Courts run parallel. There is a single integrated judicial system in India. The Supreme Court is the highest judicial organ. All other judicial organs—the High Courts and the inferior courts are subordinate to the Supreme Court. The decisions of the Supreme Court are binding on all courts.

13. Under the U. S. federation, the States have the right to appoint and dismiss their own officers. But in India, the members of the Indian Administrative Service and the Indian Police Service are appointed by the Union Public Service Commission. They also work under the State Governments. But they cannot be removed from office without the consent of the U. P. S. C. which is an organ of the Central Government.

14. There is only one Election Commission in India. The

members of Commission are appointed by the President of India. The Election Commission conducts the elections not only of Parliament but also of the State Legislatures. Again, the Comptroller and Auditor General also audits the accounts of the State Governments. But he is appointed by the President of India.

15. Under the Indian federation, the Central Government is empowered to give instructions to States to ensure compliance with the legislative and administrative activities of the Centre. All these provisions enable the Central Government to supersede the State Governments.

16. During the periods of emergency, the Indian federation is transformed into a Unitary State. The powers of the Central Government are greatly increased in times of emergency. While a proclamation of National Emergency is in operation, Parliament can make laws in any subject enumerated in the State List. Again, if there is a breakdown of constitutional machinery of a State, the President may assume all the executive powers of that State. During the period of national emergency, the States are bound to obey the directions of the Central Government.

17. It is always difficult to say that there is a single system of government in India, because the sovereignty of the Central Government is not absolute in Indian Federation. The Central Government has to consult the Federal Government highly sensitive to the rights of the States or provinces. There are differences of opinion among people regarding the true nature of the Indian federalism. The majority and minority can be preserved only with a single citizenship. But the critics are not willing to accept that India is a perfect federation. It is said that India is a pseudo-federation with a unitary bias. India is unitary in character. Prof. Wheeler says yes, "India is a unitary State with a federal bias rather than a federal State with a unitary bias." But according to Ambedkar our Constitution judiciously distributed the powers between the Centre and the States. So, it is not correct to say that the State Government is subordinate to the Central Government in all respects. We can regard India as a Unitary State or a Federal State, our discussion will be one-sided. And it cannot be scientific.

18. In short, India is a quasi-federal State. In other words, it is a mixture of the principles of federalism and unitarism. In

normal times, the Central Government and the State Governments exercise their functions independently of each other. The Supreme Court decides all constitutional disputes that arise between the Centre and the States. But in the period of emergency, the Central Government assumes extra-ordinary powers and may supersede the State Government's. The autonomy and independence of the States are greatly limited in emergency. But this is a necessity in order to protect the unity, solidarity and integrity of India.

Mr Justice D. Basu, the Constitutional expert of India, has said, "The Constitution of India is neither purely federal nor purely unitary, but is a combination of both."

But the powers of the Central Government have been enlarged in all federations. Even in the U.S.A. which is said to be an ideal federation, the powers of the national government have been considerably increased, due to war, economic crisis, political decisions, growth of social services etc. In this connection, we may point out the views of the Ex-Chief Justice of India, Mr. Justice Hidayatullah, opinioned that India should be unitary instead of a federal one in order to check the decisive forces prevailing in our country.

Q. 16. What are the major characteristics that make the Indian Constitution a federal Constitution?

Or,

Describe the principal features of the Indian federalism?

Ans. Federalism implies a form of government in which all powers of the governments are divided and distributed between the Central Government, on the one hand and the State Governments on the other hand. It reconciles the national unity and power with the maintenance of State rights.

The Constitution of India is regarded as a federal Constitution. But the word "federation" has not been mentioned anywhere in the Constitution. India is called a union of States. The Indian federation is framed on a Canadian model. At present, there are 28 States and 6 Union Territories. The major characteristics of Indian federalism are described below -

1. The Indian federalism has been characterised by the double systems of government. They are the Central Government and the State Governments. The States are not the mere agents

of the Union Government. Like the Centre, each State has a separate legislative, executive and judicial organs.

(2) In India, as in the U.S.A., the Constitution is the supreme law of the land. It is placed at the Centre governing it and the state Government. Both the Union Government and the State Governments derive their respective powers from the Constitution. The Supreme Court protects the sanctity of the Constitution.

(3) The federal constitution of India is written and rigid, or less rigid. The Constitution of India is written, because it has been enacted by the Constituent Assembly on 26th November 1949 and has come into force on the 26th January, 1950. The Constitution is more or less rigid, for it cannot be amended in the ordinary process of legislation. The Union Parliament of India alone cannot amend the whole Constitution. In case of amendment of the federal provisions of the Constitution (election of the President, distribution of powers, representation of States in Parliament, etc.) a consent of half of the State legislatures is required.

(4) The distribution of powers between the Central Government and the State Government is a the most important feature of the Indian Constitution. It divides and distributes the legislative, executive and judicial powers between the two levels of government. In India, the legislative powers have been distributed into three lists: the Union List, the Central List, the State List and the Concurrent List. In the Union List, there are 95 items. Parliament has exclusive powers over these items. The most important items are defence, foreign affairs, security of State, currency, war and peace, banking and insurance, railways, etc. The State List contains 66 items on which the State Legislature can make laws. The important items are public health, agriculture, irrigation, land revenue, etc. The Concurrent List has 52 items. Both the Union Parliament and the State Legislatures are entitled to legislate on the Concurrent subjects viz. education, civil and criminal laws, forests, bankruptcy, contempt of court, etc. However, the Constitution of India clearly lays down that if there is a conflict between the Parliament and the State Legislatures on a Concurrent subject, the former will prevail over the latter.

In our federal system, both the Central Government and the State Governments are legally co-ordinate. Neither is

responsible to the public. The State Government has a separate
 Department of Agriculture and Forestry, which is responsible for the
 management of the forests and the production of timber.

16. The supremacy of the Judiciary is another important feature of the Indian federation. At the apex of the Indian judicial system is the Supreme Court, which exercises the following powers:

- (i) **Original Jurisdiction** - The Supreme Court has the authority to hear cases directly from individuals or entities, without the need for a lower court to first hear the matter.
- (ii) **Appellate Jurisdiction** - The Supreme Court acts as an appellate court, reviewing decisions made by lower courts (High Courts and District Courts) to ensure they are correct and in accordance with the law.
- (iii) **Advisory Jurisdiction** - The Supreme Court can provide its opinion on questions of law referred to it by the President or the Government of India, although its advice is not binding.
- (iv) **Writ Jurisdiction** - The Supreme Court has the power to issue writs (Habeas Corpus, Mandamus, Prohibition, Quo Warranto, and Certiorari) to enforce fundamental rights and maintain the rule of law.

17. The Supreme Court also protects the fundamental rights of citizens. It has the power to strike down laws or government actions that violate these rights, ensuring that the government operates within the boundaries of the Constitution.

2) 17. April 1900 - 1. März 1901: 1. Teil des Indian (Kontinental)

Is there a caste system in the Indian society? Give reasons for your answer.

Ans. Federalism is a political arrangement intended to reconcile the national unity and power with the maintenance of State rights. India is called a federal State But its Constitution of 1950 is unitary in nature. It is a single system of government where all powers are concentrated at the centre by the state.

Taking following features as examples

1. The distribution of powers is favourable to the Central Government. It is the Parliament that makes laws of 99 items, except if there is a conflict between a law and a state law. The President will promulgate the laws and appoint/dismiss judges given to the parliament. If there is a conflict, the National Assembly is a suprema international treaties or agreements.

I, _____, a _____ State, is appointed by the _____ during the pleasure of _____ State, and he may reserve certain _____ for the consent of the President of India.

3) In our country, excepting Jammu and Kashmir, other States have no separate Constitutions of their own. Like the C.E.D. in States of the U.S.A., the Government derives its authority from the same constitution, i.e., the Constitution of India.

The question of whether the United States should support the

[illegible]

of In America the States are indestructible. But in India, the States are destructible. It means that in our federal system the Parliament can alter the names and boundaries of the States without their consent.

(d) The principle of equal representation of States in the Upper House of Parliament does not exist in India. For the members of the Rajya Sabha are elected on the basis of population.

Another primary element of our federation is single state units as the 17-18 of India. The universities of States have no separate curriculum.

(8) It is a single integrated judicial system in our country. The Supreme Court is the highest judicial organ. All courts, the High Court and the lower courts—are subordinate to the Supreme Court and its decisions are binding on all judicial organs of the country.

19. The members of the Human Administrative Service and the Indian Police Service are appointed by the Union Public Service Commission which is an important agency of the Central Government. But they also work under the State governments without their approval of the Government.

There is one Election Commission, and an Auditor General in each and every country, he election, and audit the accounts expenditure of the Central Government and the State governments.

4. The Constitution of India has empowered the Central Government to give directions to the States to ensure compliance with the administrative and the legislative functions of the Central Government.

and during the periods of emergencies, the Central Executive Committee exercises a great control over the legislation, administration and finances of the States.

1. **January bias in our constitution**

because the supremacy of the Central Government prevails in Indian federation. The members of the Indian Constitution have deliberately made the Union Government highly centralised. It is said that India is a Unitary State with subsidiary federal features rather than a federal State with subsidiary unitary features. Really speaking, India is a quasi-federal State. It combines the principles of unitarism and federalism. The Constitution of India is neither unitary nor federal. It is a combination of both.

Q. 18 Explain clearly the principles followed in respect of the distribution of powers between the Parliament and the legislatures of States in India.

Ans.

Describe and comment on the legislative relationship between the Union on the one hand and the States on the other.

Ans.

How are the legislative powers divided between the Union and the State governments in India?

Ans. The main distinctive feature of a federal government is the division and distribution of powers. In a federation, the powers are distributed among the different states and the central government. In India, the powers are divided between the Central Government and the State Governments. The Central Government has the power to make laws on the subjects enumerated in the Union List, the State List, and the Concurrent List. The State Governments have the power to make laws on the subjects enumerated in the State List and the Concurrent List. The Central Government also has the power to make laws on the subjects enumerated in the Concurrent List, but the State Governments have the power to make laws on the subjects enumerated in the State List.

In the U.S.A. and Switzerland, the constitution reserves the powers of the central government to the central government and the powers of the states or cantons to the states or cantons. In the U.S.A., the example is given of the division of powers between the federal government and the states. The federal government has the power to make laws on the subjects enumerated in the Union List, the State List, and the Concurrent List. The states have the power to make laws on the subjects enumerated in the State List and the Concurrent List. The federal government also has the power to make laws on the subjects enumerated in the Concurrent List, but the states have the power to make laws on the subjects enumerated in the State List.

Canada, on the other hand, the powers of the Central Government and of the Provincial Governments are clearly defined and laid down in the constitution. But the residual powers under the Canadian constitution belong to the Central Government.

In India, the distribution of legislative powers between the Centre and the States may be discussed under two heads, viz., ordinary and extraordinary.

(a) Ordinary. Like the Government of India Act, 1935, the Constitution of India also provides for the distribution of legislative powers between the Centre and the States. These three lists are Union List, State List, and Concurrent List. They have been incorporated in the Seventh Schedule of the Constitution.

Union List. There are 99 items in the Union List. The items include foreign affairs, defence, currencies, war and peace, banking, currency and coinage, citizenship, railways, posts and telegraph, insurance, etc. The Union Parliament can exclusively make laws on these items.

State List. The State List comprises 66 subjects. The State Legislatures are fully empowered to make laws on these subjects. The important subjects are police, order, power, local self-government, public health, agriculture, water supply, irrigation, land revenue, etc.

Concurrent List. The Concurrent List includes 52 items viz., education, medical relief, marriage and divorce, contracts, labour, social welfare, contempt of court, etc. Both the Union Parliament and the State Legislatures have equal power of legislation over these items. But if there is a conflict between a Central law and a State law with regard to any item in the Concurrent List, the former will prevail over the latter. If a law passed by the State Legislature is reserved for the consideration of the President and received his assent, it shall prevail over the law of Parliament.

(b) Extraordinary. According to the Constitution of India, the residuary powers in the Central government.

(i) Extraordinary. The Union Parliament can make laws on the subjects enumerated in the State List under extraordinary circumstances.

The Union Parliament has the power of legislation with regard to any subject in the State List in the national interest, if the President declares a resolution to that effect supported by two-thirds of its members present and voting (Art. 249).

(ii) National Emergency. If a National Emergency is in operation, the Union Parliament can make laws on the subjects enumerated in the State List (Art. 250).

The President is also empowered to legislate over a subject.

included in the State list, if we have more legislatures of States request the Parliament to make law on that subject (Art. 248).

(4) Parliament can make laws on subjects enumerated in the State List for the implementation of international treaties, agreements, or conventions with the foreign States (Art. 253).

(5) In case of breakdown of constitutional machinery in a State the President of India may declare that the powers of the legislature of the State shall be exercisable by or under the authority of Parliament (Art. 356).

(6) Certain laws (e.g. delegation of the powers of the High Court) passed by the State Legislature are reserved by the Governor of that State for the consideration of the President. The President may either give his assent or veto it or return it to the consideration of the State Legislature with his own recommendations.

Conclusion From the foregoing discussion, it may be pointed out that the supremacy of the Central Government is provided in India. The Union Government possesses absolute power of legislation. Some people support the federal arrangement in the ground that increase in powers of the Central Government are increased, the national unity cannot be maintained. It is argued that a strong central government is only for the welfare of the people and to protect the national integrity and sovereignty.

And there are critics who perceive India as a quasi-federal State. In India, the Central Government possesses more powers than the Central Government of other federal States of the world. In normal times, the Union Parliament is entitled to make laws on the State subjects in the national interest or for the purpose of implementing international treaties and agreements. In times of emergency, the Central Government can effectively control the affairs of the States. As a result, India is transformed into a unitary State. It is a violation of the basic principle of federalism. There is a pronounced inclination in the Constitution of India.

But it may be said that the constituent States of India do not enjoy the delegated powers and have independent existence of their own. Their source of power is the Constitution itself. The State Legislature will can make laws on public health and

agriculture. It is true that the Central Government can make laws on State subjects in the period of National Emergency. But it does not mean that the legislature and the executive remain suspended.

India has adopted the ideals of a Welfare State. Hence, the powers of the Central Government should be increased to promote the welfare of the people.

Q 19 Write a critical note on the Administrative Relations between the Union and State in India.

Or

Examine the nature of the administrative relations between the Union and the State in India.

Ans. One of the essential features of a federation is that the powers are divided and distributed between the Centre and the States in accordance with the provisions of the written Constitution or the and the Constitution of India also distributes the administrative powers between the Union Government and State Governments. Our Constitution provides for co-ordination and co-operation between the Centre and the States in matters of administration.

According to the Constitution of India, the Central Government exercises administrative powers over its subjects enumerated in the Union List and the State Government is entitled to administer those subjects in the areas which have been included in the State List. So far as the regulation of Concurrent Subjects (52) is concerned, it may be pointed out that they are usually executed and administered by the State Governments. There is an exception to this principle. The Central Government may also administer a subject included in the concurrent list. In such case, the State Government cannot interfere with it.

The administrative relations between the centre and the States may be discussed from two angles viz., (a) Normal times and (b) Emergency period.

(A) Normal times According to the provisions of the Constitution of India, the Central Government may issue directions to the States, But there is no mention in the Constitutions of the U.S.A. and Australia. In this respect, the Constitution of India has followed the Government of India Act, 1935.

(i) The executive power of every State is so exercised as to

ers are compliance with the law made by Parliament. For that purpose, the Union Government may give directions to a State.

(ii) The executive power of every State is so exercised as not to impede the exercise of the executive of the Centre. The Union Government may give directions to States for that purpose.

(iii) The Central Government may also give directions to any State for the construction and maintenance or opening or discontinuance of national and minor importance as well as for the protection of the railways within the State.

(iv) The Union Government may also give directions to State or the execution of schemes which are essential for the welfare of the Scheduled Tribes as well as for the development of Hindi language.

(v) The President of India is empowered to delegate to the Government of State or an administrative powers of the Union with the condition of the State.

(vi) The Constitution of India empowers the Union Parliament to take away or restrict the use of any rights and liberties.

(vii) The President of India is empowered the President to set up or shut State and for the purpose of appointing and removing officers of the State and the States are equally interested.

(viii) The Central Government may, subject to the condition of the President, appoint or remove officers of the State and the States are equally interested. The President of India is empowered to appoint or remove officers of the State and the States are equally interested.

(ix) The President of India is empowered to appoint or remove officers of the State and the States are equally interested. The President of India is empowered to appoint or remove officers of the State and the States are equally interested.

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(xii) The President of India is empowered to appoint or remove officers of the State and the States are equally interested. The President of India is empowered to appoint or remove officers of the State and the States are equally interested.

(i) During the period of a proclamation of Financial Emergency, the government of every State must observe the canons of financial propriety.

(ii) Compared to the Constituent of India has made the Union Government stronger than the State Governments. For it arms the Centre with substantial powers to direct all important activities according to a fully executed plan. The Union Government transcends the authority of the States in times of emergency. Even in normal times, the Union Government exercises a great control over the Government of the States by giving necessary directions to them.

(iii) Give a critical estimate of the financial arrangements between the Union and the States under the Constitution of India.

(iv)

Discuss the financial relations between the Union and the States in India.

The Federalism is characterized by the distribution of financial resources between the Centre and the States. It is regarded as an essential feature of a federal State. In a perfect federation, the Centre and the States are co-equal. So they should enjoy autonomy and financial independence. The State governments in particular should be allowed to raise their revenues in order to perform their regular functions and smoothly. Otherwise, it will be impossible for the State to maintain their separate identity and independent status.

The Constitution of India has made detailed provision in respect of financial relations between the Centre and the States.

(i) The Union Government has been empowered to levy taxes on income, foreign loans, railways, posts and telegraphs, corporation tax, etc.

(ii) The State Governments have exclusive power of taxation over land, excise, consumption or sale of electricity, rates, etc.

(iii) Under the Constitution, the Union Government enjoys the power of levying taxes on the taxes which have not been levied by the States in the Union List or in the State List.

(iv) There are certain taxes which are imposed by the

Central Government outlays are collected, used and appropriated by the States viz. stamp duties, excise duties on medicinal and toilet preparations.

Again, there are certain taxes which are levied and collected by the Union but whose surpluses are assigned to the States. As for example, taxes on railway fares, the sale or purchase of newspapers, etc.

Moreover, there are certain taxes which are imposed and collected by the Central Government, but they may be distributed between the Centre and the States, viz. taxes on income other than agricultural income.

Further more, there are some taxes which are levied and collected by the Union Government, but the Parliament may by law apportion their net proceeds between the Centre and the States. As for example, the excise duties other than duties on medicinal and toilet preparations.

It is clear that the State Governments may not have adequate financial resources to respond to their responsibilities. Hence the Union Government grants financial aid to the States every year. The principle guiding the grants-in-aid to the States is determined by the Parliament.

In this connection, it may be pointed out that a Finance Commission is appointed by the President of India. Its main function is to determine the share of the Centre in the levy of taxes on the products of taxes between the Centre and the States and the principles which govern the grants-in-aid given by Central Government to the State Governments.

In times of emergency the Union Government has the power to suspend the financial autonomy of the States. As for example,

During a proclamation of National Emergency the President of India may by order suspend the distribution of financial resources between the Centre and the States. Moreover the grants-in-aid given by the Centre to the States may wholly suspended.

In case of breakdown of constitutional machinery in a State, the financial powers of a State Government are to be exercised by or under the authority of Parliament.

During a proclamation of National Emergency, the Central Government may give such directions to the States to observe financial discipline. Moreover it may also give

directions on reduction of the salaries of persons serving under the State.

The above discussion clearly reveals that the Centre has a strong position so far as the Union-State financial relations are concerned. The State Governments are reduced to doler receiving corporations. The resources of the States are extremely limited. They depend upon the financial assistance of the Centre. Grants-in-aid are provided to the State Governments with strings or conditions attached to them. All foreign assistance either from countries or international agencies is acquired by the State/States only through the Union Government. In both the State List and the Concurrent List, the Union Government has overriding control. As a result of the paramount control of the Union over the State Governments in financial matters, the latter finds it difficult to implement a number of its plans due to lack of resources. Finally, the Union Government may destroy the financial autonomy of the States at any time without emergency. Thus the position of the States is very weak as compared to the position of the Centre in financial matters. Above all, the inequality of resources is also evident in the integration of our financial system.

Q. 1. Write a short essay on the Centre-States relations in India.

Or,

Discuss with reference to the Centre-States relations, the nature of Indian federalism.

Ans. The principle of division of powers is an essential mark of federalism. The Constitution divides and distributes all powers and authority between the two sets of government in India, we have a dual system of government in the country. The Constitution of India clearly demarcates the legislative, administrative and financial powers between the Central Government of the one hand and the State Governments on the other. In case of division of legislative powers between the Centre and the States, the Westminster Constitution of India has followed the *Co-operative* India Act, 1947. And in matters of administration and finance, the framers of the Indian Constitution seek to establish harmony between the Union Government and the State Governments.

The Constitution of India also provides for a cooperative relationship between the Centre and the States. The Centre is responsible for the defence, foreign affairs, and the communication and transport. The States are responsible for the police, public order, and the local government. The Union List, the State List, and the Concurrent List are the three lists of powers. The Union List contains 11 subjects, the State List contains 66 subjects, and the Concurrent List contains 46 subjects. The Centre has the right to legislate on all subjects in the Union List. The States have the right to legislate on all subjects in the State List. The Centre and the States have the right to legislate on all subjects in the Concurrent List. The Centre has the right to declare a National Emergency in a Constitution in time of a State's trouble.

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Q. 79 Write a critical analysis conflicts in the Indian federal system.

(2)

Discuss the Centre States conflicts in the Indian federal system.

Ans. The intergovernmental relations of the Indian Republic have evolved a federal character, which means the transfer of subjects and powers to the States. This transfer of powers has been done in a piecemeal manner. The central government has not been able to extend its practical authority over the States and State Government has been able to bring about an inter-economic level in the country. It was imperative to have a strong central unit, at the same time they have provided the right balance and identity and independence to States in the sphere of politics. But even today, the Centre has been able to bring nothing into the country and even do the sphere of central government of the States is determined by the central government. It is not possible to have any other arrangement between the central government and the States. Thus we have a quasi-federal system of States and the Federation of States.

In the past, the intergovernmental relations after the transfer of powers to the States, the Centre States conflict in relation to the transfer of powers and powers to the States and the Centre. The transfer of powers to the States has been done in a piecemeal manner. The central government has not been able to extend its practical authority over the States and State Government has been able to bring about an inter-economic level in the country. It was imperative to have a strong central unit, at the same time they have provided the right balance and identity and independence to States in the sphere of politics. But even today, the Centre has been able to bring nothing into the country and even do the sphere of central government of the States is determined by the central government. It is not possible to have any other arrangement between the central government and the States. Thus we have a quasi-federal system of States and the Federation of States.

of the States subjects into the Government law, or further complicate the problem.

In the light of above discussion we can find out the major features and major State conflicts in our federal system.

(A) Distribution of Powers

The Constitution in the Sixth Schedule (Article 246) has provided for subjects among the three lists concerning the Centre States Legislative Administrative financial relationships. But the entire scheme of distribution of powers exhibits a strong unitary bias. Thus it has strengthened the centralising process. The scheme of legislative relations has shown that the States have a much weaker position, are compared to the Union. For examples—the Parliament can make laws on the Union, Concurrent and residual list and a Besides the Union Government can legislate on residual matters on the State subjects in the national interest, or at a emergency by two or more states Legislatures, or to supervise international agreements. Thus, in our Constitution, the central legislative powers, to have an inherent tendency to centralise between the Centre and the States. The Sarkaria Commission has observed that the Constitutional provisions are flexible enough to keep pace with the developing and changing needs of society. The role of federal supremacy is to avoid absolutely conflict between and ensure harmony between the Union and State laws.

As regards administrative relations the Constitution establishes supremacy of the central Executive over the States in the administrative fields. But the Union has been given too much control over the States to the extent of reducing latter to a completely subordinated status. Hence some of the States have witnessed the drastic revision of the provisions of Articles 256 and 257 (directions to the States, e.g. ensuring compliance with the Union laws and Union's administrative even in normal times) and Article 258 (Concerning delegation of functions to the States). However the Sarkaria Commission has recommended that the implementation of Union laws and the exercise of Union's executive powers are essential to ensure harmonious exercise of the administrative power by the Union and the States, in keeping with the principles Union supremacy. The Commission has further observed that federalism is a functional arrangement

E) All India Services

The members of the All India Services (I. A. S. and I. P. S.) are recruited by the Union Government. But they occupy important positions both at the Centre as well as in the States. The complaint of the States is that it is a little bit set up to have all All-India Service that serves the needs of the States but is controlled by the Union as a central feature. It has also been remarked that it is hard to be desired that there may be a feeling among the State Govts. that the All-India Service Officers are the agents of the Union Govt. and they are not carrying out the policies of those States. Aggarwal has observed that the All-India Service gives a homogeneous administrative structure and helps in bringing greater efficiency in the administration of the Union and the States. The members of these services are able to acquire that knowledge and wisdom which is knowledge at grassroot level.

F) Autonomy for States

Some southern States like West Bengal, Kerala and Tripura have a strong feeling that the Government of our country has been overlooking the situation for state welfare. Their contribution to the development of India is federal since in the Union Government there is no Union Government should not interfere in the States and should not monopolise the Union Government. The State Governments are autonomous in their own fields. For example—the election of the President and the election of the members of the Council of Ministers. The Union Government has no right to interfere in the State and Union Government subjects, substantial and case of grants-in-aid etc. The Union Government's objection is that it is not disfranchising the States.

In India, the Centre States have not constituted the ever of the federalism and they are so centrally flexible so as to enable the federal system to work smoothly. Any deviation from the American Model is but only the reason for calling Indian federal system as quasi-federal. Even in the United States, a number of factors have continued to establish the supremacy of the national government. Indian federalism presents a hybrid example of "Co-operative Federalism". Protection of environment, family planning, control of economic and dangerous forces, economic and social planning for weaker sections etc. are the spheres in which considerable co-operation exists between the Central and the State Governments.

5

THE UNION EXECUTIVE

Q. 23 Critically discuss the procedure of election of the President of India. How can he be removed?

Or,

Explain how the President of India is elected?

Ans. The President of India is not an elected choice of the people. According to the provisions of the Indian Constitution, the President is elected by an electoral college consisting of the elected members of the both Houses of the Parliament, Lok Sabha and Rajya Sabha and the elected members of all the Legislative Assemblies of the constituent States of the Indian Union. We know that the number of members in the Legislative Assembly of different States varies widely. The Constitution has provided for the matter of election of the President, there must be some sort of uniformity and a measure of parity in the representation of different States in the electoral college. It is not necessary to secure equality between the State's representatives in the electoral college and the representatives of the Union. It may be possible that a method of Weighting Votes is introduced in such election.

According to the constitution, the total of votes, which each elected member of Legislative Assembly of a State is entitled to cast is determined by dividing the population of the State by a certain number of electors. If the members of the Legislative Assembly of a State number is more than 50, then the vote of each member can be further increased by one. Here we may take an example to illustrate the formula. Suppose the total population of a State is 4 crores and the number of its members of its Legislative Assembly is 300. Dividing the population of 4 crores by 30, we get 13,333 as the quotient. And dividing the quotient by 30, we get 444. The remainder is 333. This 333 may be disregarded. Therefore, each member is entitled to cast 444 votes.

But the constitution provides for a different formula for the

eleven members of both Houses of the Union Parliament. Under it, each elected member of either House of Parliament has such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the State by the total number of elected members of both Houses of Parliament. If the total votes of all the members of the State Assemblies is 4,50,000 and the total number of elected members of Parliament is 70, then each member of Parliament will have 6,428 votes in the election of the President.

Further, the election of the President is held in accordance with the system of proportional representation by means of the single transferable vote. The names of the Presidential candidates are made to appear on a ballot paper. And every voter indicates in the ballot paper his or her first, second, third, fourth and fifth preferences depending on the number of candidates. The candidate needs a majority of 50 per cent votes. This is known as quota which is determined by dividing the total number of valid votes by two and then adding one to quotient. Suppose the total number of valid votes is 1,000. Dividing this figure by two, we get 500. To the quotient we add one. So the quota is 500 + 1 = 501. In the first counting only the first preference votes are counted. For those in whose list the quota is reached, elected as the President of India. However, if no candidate obtains the required votes, the candidate getting the least number of votes is eliminated and the second preference votes marked on the ballot papers are for him are distributed among the remaining candidates. The method of transferring the votes goes on till one candidate obtains the requisite number of votes.

The process of election of the President of India has been characterised by certain peculiar features.

1. In India, the method of indirect election of the President has been preferred, because if a vast country like ours with a large electorate nearly 700 million electors would have to vote, it is a tremendous waste of time and energy.

2. Each member of the Presidential electoral college must give to cast all his votes or else it is not possible for him to divide his votes and give to more than one candidate.

3. In our parliamentary democracy, the President is a ceremonial

executive. If he is directly elected by the people, there may be constitutional conflicts between the President and his Council of Ministers on all important matters of the Union Government. Again, a directly elected President may be induced to usurp powers and institute curbs against the Union Cabinet and thereby endanger the Constitution of India.

4. It is said that the method of election of the President of India really amounts to election by "preferential vote" or "alternative vote" and not proportional representation. For the system of proportional representation requires multi-member constituencies. It cannot be used where only one office like that of the President of India is to be filled.

5. In the history of Presidential elections in India, the counting of second preference votes was necessary for the first time in 1967 and Mr. V. V. Giri won a victory as the fourth President of India.

6. In 1971, the Supreme Court of India in its advisory jurisdiction has opined that the election of the President of India must be held before the expiration of the term of the outgoing President notwithstanding the fact that at the time of such election all State Legislative Assemblies or Assemblies are dissolved.

The Constitution of India in Article 61 prescribes a procedure for the impeachment of the President of the Republic. The President of India may be removed from office for violation of the Constitution. A motion proposing such charge can be made in the shape of a resolution signed by at least one-fourth (¼) of the total members of one House and moved after giving fourteen (14) days notice. It may be initiated in either House of the Union Parliament. When a charge has been so preferred by one House, it shall be investigated in the other House. The President has the right to appear at such investigation. However, if such a resolution is passed by a majority of two-thirds members in each House of Parliament, the President of India is conclusively removed from his office. It may be noted that in our federation, the Supreme Court protects the sanctity of the Constitution. But it has no part to play in the impeachment of the President for the violation of the Constitution.

Q. 94. Discuss the powers and functions of the President of India and state his constitutional position.

the President will call a press conference on both figures of the hour to resolve a controversial deadlock over a budget bill.

3) **Financial Powers**—The President also exercises financial power. A part of it is an absolute power. A part of it is the expenditure of the money. According to the provisions of Indian the Annual Financial Statement prepared by the President before both the Houses of Parliament. This statement shows the estimates of revenue and expenditure of the Government for the next year. It may be pointed out that no financial provision and expenditure cannot be made without his approval, or the President.

Indians were the children of Indian state society. They are not enemies of an opponent to a government that has been convicted by a Court of Law.

1. *Prüfungsausschuss* (Prüfungsausschuss) ist ein Ausschuss, der die Aufgaben der Prüfungsausschüsse wahrnimmt. Er ist aus den Mitgliedern der Prüfungsausschüsse und den Mitgliedern der Prüfungsausschüsse gebildet.

[illegible]

the executive powers of the State. The powers of the legislatures of the State are so exercised by the Tamil Parliament. The

The type of emergency that would be declared in force for an indefinite period. The central Government may give directions to the States of transfer of financial property. All money-bills passed by one House Legislature are to be reserved for the consideration of the President.

President : Thus the President of India has been given wide and far-reaching powers when he enjoys both during normal and emergency times. But after the passing of the Constitution Forty-second, 43rd, and Forty-fourth, 1978 Amendment Acts the President of our Republic has become a Constitutional figurehead and nothing more. Thus today, President's position is one of great authority and dignity but at the same time strictly circumscribed. Thus the President is bound in every case to act on the advice of his Prime Minister and other Ministers who are responsible to the Lok Sabha and responsive to the public opinion. In short, his powers really reside in the Ministry and the Parliament and not in the President as such. He has no discretion in the administrative system of government. The Supreme Court through its judgments has upheld his position that the President is not bound by the advice of his Ministers during emergency as during normal times. But emergency has not been declared a proclamation of the National Emergency (Art. 352) only after receiving a written recommendation of the Council of the Union Cabinet. If the President abuses his power, he can be removed from office by a process of impeachment.

...the President of India is a
... Unlike the British
... the President of our Republic is an
... In our constitution, there are
... the President may still have of his own
... These are— *1st*, appointment of the Prime
... *2nd*, dissolution of the Union Ministry, *3rd*, dissolution of
... and *4th*, seeking information on all matters of
... the Prime Minister etc. In
... the President may become most
... However, the President has to be free from
... He is expected to act with complete
... and impartiality. The nation is expected to

be sanctioned by his wise leadership and constructive role. In short, the President of India is the symbol of national unity, dignity, its totality and apparatus of economy.

Q. 2. Discuss the powers exercisable by the President of India during the emergencies.

Ans. According to Lord Bryce, the federation is a weak government because the power are distributed between the Central Government and the State Governments. This is the reason that on every federation, the steps have been taken to increase the powers of the centre against the dangers of external aggression or internal disunion. In the U. S. federation, for example, the Supreme Court has expanded the powers of the Central Government. But our Constitution has vested extensive powers to the Union Government or the President to deal with all the contingencies in times of emergency. The emergency powers of the Union President have been borrowed from the Westminster constitution of 1907 and are in the relevant portions of the Government of India Act, 1935.

The constitution of India in Part XVI provides three different types of emergency and in each one the President is empowered to deal with the emergency. The emergency provisions are an essential part of Article 352 and are enumerated as follows:

1. Declaration of National Emergency due to war or external aggression or armed rebellion.

2. Proclamation of State Emergency due to the failure or constitutional machinery.

3. Proclamation of Financial Emergency due to badly shaken financial stability.

National Emergency Article 352

The President of India after consulting a majority members of one house of the Union Council of Ministers and after Ministers of one house meet and make a proclamation of emergency when the security of India or any part thereof is threatened in its territory or is threatened by war or foreign attack or armed rebellion.

Every such proclamation of emergency has to be laid before each House of Parliament. It ceases to operate on expiration of one month unless it is renewed by a majority of total membership of each House. It can be renewed for three and three

subsequent two-thirds majority of those present are voting. The normal duration of a proclamation of national emergency is six months from the date of approval. This may be extended for another six months by another resolution. Further the Forty-fourth Amendment Act, 1978 says that the one-fourth (1/4) of the total members of the Lok Sabha may give notice to the Speaker of their intention of holding a special session of the House to discuss disapproval of such an emergency. And the discussion in this session must be held within 15 days.

We are aware that the national emergency was invoked on October 1962. It was revoked on March 27, 1967. Bangladesh liberation war in mid-June 1971. Internal Security threatened.

The effects of proclamation of national emergency are —

1. During a proclamation of national emergency, the executive power of every State in India is to be exercised in accordance with the directions given by the Union Government. Again, it is the duty of the Union Government to every State against external aggression or armed rebellion and to require it to co-operate in the government of every State in India. It is in accordance with the provisions of the constitution.

2. The Parliament is vested with a limited power to make laws for the whole of India but it is subject to the subjects of the State. Further, the President has the power to promulgate ordinances of the Parliament and if in session, a bill is to be introduced in the Lok Sabha and if the bill is passed by the States can be extended by the Parliament to extend a period of one year at a time.

3. On a proclamation of national emergency is in operation, the President may suspend the fundamental rights in the Union and in the States. In between the Union and the State Government.

4. The fundamental rights of six freedoms in Article 19 are suspended in a state of emergency. A constitutional movement or protest is suspended. The movement is suspended. Further, the President may suspend the constitutional right of the President to move any case to the Supreme Court or High Court for enforcement of fundamental rights (except life and liberty) and the rights of the President and 1 enumerated in Part III of the Constitution.

President's Rule in a State (Article 356)

The emergency to declare in case of constitutional breakdown in a State can be proclaimed if the President is satisfied with the report of a Governor of the State or on his own knowledge that a situation has arisen in which the State Government cannot be carried on in accordance with the provisions of the Constitution.

The proclamation of State Emergency needs ratification by the Parliament within two months after the President's declaration. The continuance of such emergency is subject to the maximum period of three years. However, the term could be extended. An Act of 1978 clearly lays down that the President's Rule can be extended beyond the period when the State Emergency is in operation and the Election Commission enters the polling operations. The space against a remedy is deleted.

It may be pointed out that in up to 1978, the President's Rule in the States have been at the apex of the State, postulate the President's Rule.

The effects of the proclamation of State Emergency are as follows:

In the situation of emergency, the powers of the President of India extend to the extent of the powers of the Governor in the State. The President may also exercise the powers of the Governor in the State in relation to the High Courts.

The powers of the State Government are suspended. The President may suspend the authority of the Government of the State. The President may also suspend the authority of the Government of the State. The President may also suspend the authority of the Government of the State.

An Act of 1978 has amended the provisions of the Constitution relating to the State Emergency. The President may now declare a State Emergency in a State if the Government of the State cannot be carried on in accordance with the provisions of the Constitution. The President may also suspend the authority of the Government of the State. The President may also suspend the authority of the Government of the State.

It may be noted that the powers of the President in the State Emergency cannot be suspended during this emergency.

Financial Emergency (Article 360)

The President of India may declare a Financial Emergency in a State if the Government of the State cannot be carried on in accordance with the provisions of the Constitution.

whereas the financial stability or credit of India or any part of the territory thereof is badly shaken.

The duration of a proclamation of financial emergency is two months. However, such a proclamation must be laid before each House of Parliament. If it has been approved by a majority of both Houses of Parliament by a majority of two-thirds of the members present and voting, such a proclamation will remain in force for an indefinite period. It is to note that the financial emergency has not so far been declared in any country.

The effects of financial emergency are as follows:

In the President of India may give directions to the States to observe certain limits of financial propriety and also direct the Government to observe certain financial discipline.

The President of India may direct a State to observe all such directions and to observe such financial discipline as may be directed by the President. The President may also direct a State to observe such financial discipline as may be directed by the President.

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of Ministers involving as it does the integrity of the Executive.
is taken from Article 114, which states that "the President appoints and
disposes the legislative part of the Government, the Executive part."
Under the Constitution it is also stated that the President has the
right to appoint and remove the members of the Executive. The
President is also the head of the Executive branch of the Government.
The President is also the head of the Executive branch of the Government.
The President is also the head of the Executive branch of the Government.

According to the provisions of Mexican constitution, the membership of the Congress is not automatic but on the contrary of the contrary, at the President's may a proposal also from the House of the People, take place in the first session of each of the National Congress, a proposal to admit a person as a member of the President of Mexico may approach a person who is not a member of either House of Congress as a candidate of the House of Representatives. But he has to seek membership of the House within 6 months from the date of his appointment. After that the bill can be signed after that period. But the person must stay in office for a year or more after that period. The person may not be the same person as the person who was elected before. If the person is elected in the House of Representatives, he is appointed for a term of one year only in the House of which he is a member.

[illegible][illegible]

peaks does not take it support the policy of the Council of Ministers, and it is a fact as a matter which the Ministry has placed where the House has to pass a Bill introduced by the Ministry and it is not acceptable. In addition, in the Council of Ministers, there is a Private Member Bill is passed against the opposition of the Ministry. It is a fact as a resolution indicating a total cut in the salary of the Minister.

By all these methods, he control of Ministers (or the Union Government) as we should say, rests in the Indian Parliament. In a democratic system, this means that a displaced House of the Legislature can throw the entire cabinet of Ministers out of office, allowing a vote of no-confidence passed by the former. Therefore, the Government of Ministers should pursue unified policy on all important questions.

the House will not vote any Act without the approval of Parliament. But he measures such a plan with more discretion and good judgment and in this lies the Parliament. They will not act in a hasty manner with the support of the majority members in the House. The various members Bills have no chance to vote & a system of the country of Ministers. However, the House is not a democracy, which of the House Government is controlled by the Ministers. Ministers influence and control the House. The House is not a Parliament. According to the provisions of the Constitution, the House Government cannot propose a law and without the law of Parliament. Similarly, the House cannot pass a bill without the sanction of Parliament. But the House is not a democracy. It is a financial system of the House of Representatives. It is not a democracy. As a matter of fact, the House of Ministers controls the national money. The Council of Ministers and the House of Representatives in Parliament. All proposals for money are proposed by the House of Ministers.

we did for him a Minister garden and controls the Parliament. The Ministers are selected from among the members of the House of Commons who secure a majority in the House. They are assisted by the members of the Council of Ministers and by the Privy Council. It has been shown that if the members of the House of Commons are not allowed to elect the Ministers, the Ministers will be subject to the discipline of the House of Commons.

when the Parliament is not in session, appoints a state of national or financial emergency, grants pardon to an offender etc. etc.

In our democracy, the role of the Vice-President is not important as we find in his counterpart in the U.S.A. In the U.S. political system, the Vice-President can attend the sittings of the Senate and is integrally connected with the President in the administration of the country. But no such active role does the Indian Vice-President play in our political and constitutional system. When the President is in office, the Vice-President has only one function, i.e. to discharge the responsibilities as the chairman of the Rajya Sabha.

6

THE UNION LEGISLATURE— PARLIAMENT OF INDIA

Q. 31 Explain clearly the constitutional relationship between the House of the People (Lok Sabha) and the Council of States (Rajya Sabha) in India.

Or

Describe the composition of the Indian Parliament and the constitutional relations between its two Houses.

Ans. The Constitution of India has provided for a bicameral form of legislature. The central legislature of India is known as Parliament. Parliament consists of the President and two Houses, the Lower House called the House of the People (Lok Sabha) and the Upper Chamber is known as the Rajya Sabha. The President of India is an integral part of the Union Parliament because he summons and prorogues the Houses of Parliament. He has also the power to dissolve the House of the People. No Bill can become an Act of Parliament without the assent of the President.

The House of the People is the popular Chamber of Indian Parliament. It is made up of the representatives of the nation. The Constitution has provided that the House of the People consists of members elected by a direct vote of whom 525 members are elected directly by the people of the States on the basis of universal adult franchise. 20 members represent the Union Territories and 12 members are nominated by the President from the Anglo-Indian Community.

Every citizen of India who is not less than 18 years of age is entitled to vote in the elections of the Lok Sabha.

The qualifications for the membership of the Lok Sabha are as follows:

1. The person must be a citizen of India. 2. The person must not be less than 25 years of age.

The House of the People elects a Speaker and a Deputy-Speaker from among its members. The Speaker and in his absence the Deputy-Speaker presides over the meetings of the

The tenure of the Lok Sabha is five (5) years. It may be dissolved earlier. The period may also be extended by the Parliament during a proclamation of National Emergency.

The Council of States (Rajya Sabha) represents the State organs. It consists of 238 members of the States and the Union Territories elected on the basis of proportional representation by means of the single transferable vote. The remaining twelve (12) members are nominated by the President from amongst persons who have special knowledge of practical experience in art, science, literature and social service.

But the principle of equal representation of States has not been followed in the Constitution of India. For Pradesh send 14 members to the Rajya Sabha. But the membership of Jammu and Kashmir is only 4.

A Person may be member of the Rajya Sabha if (i) he is a citizen of India, (ii) he is not less than thirty (30) years of age.

The Council of States is a quasi-permanent body. The members are elected for six years, but one-third of its total members retire after every two years.

The Vice-President of India is the ex-officio Chairman of the Rajya Sabha. The Rajya Sabha also elects a Deputy Chairman from amongst its members.

The Constitutional relations between the two Houses of Parliament

If we analyse the Constitution of India we find that the House of the People and the Council of States enjoy equal powers in certain respects. In some matters the House of the People possesses more powers than the Council of States. There are also certain cases where the Council of States stands above the House of the People.

Under the Constitution of India, the House of the People and the Council of States enjoy equal powers in the following subjects:

(i) The powers of the Rajya Sabha and the Lok Sabha are equal in respect of public bills. A public bill may be introduced in either House of Parliament and cannot be sent to the President for its assent without the approval of two Houses. A public bill passed by one House is sent to the other House for its approval. If it is rejected by the Second House or if it is not sent back to

the originating House within a period of six months, or if there is a dispute between the two Houses with regard to the amendments made on the bill the President of India may summon a joint session of two Houses to resolve the constitutional deadlock.

(ii) Both Houses enjoy equal status in respect of elections and impeachment of the President and Vice-President of India. The elected members of both the Houses of Parliament participate in the election of the President. The Vice-President is elected by the members (elected and nominated) of both Houses of Parliament. The Chairman and Vice-President can be dismissed by the two Houses of Parliament.

(iii) It is not possible to amend the Constitution of India without the consent of both Houses of Parliament. Neither the Lok Sabha nor the Rajya Sabha is entitled to amend the provisions of the Constitution without the approval of the other.

(iv) An emergency declared by the President of India is also placed before the two Houses of Parliament. It must be passed by Lok Sabha and the Rajya Sabha in the same procedure.

(v) The Judges of the Supreme Court, the Comptroller and Auditor-General of India are appointed by the President on a report of each of the Houses of Parliament. The report must be passed by a majority of its total membership as well as a majority of not less than two-thirds (2/3) of the members present and voting in each House of Parliament.

(vi) The Constitution of India has made no distinction between the House of the People and the Council of States in case of appointment and dismissal of Council of Ministers. It is true that the Prime Minister belongs to the Lok Sabha, but it is also possible that some of the important ministers are also taken from the Rajya Sabha.

A major distinction in the Constitution of India, in certain cases, the powers of the House of the People are greater than those of the Council of States.

(i) The House of the People has the power to determine whether a bill is money-bill or not.

(ii) A money bill can be introduced only in the Rajya Sabha. It is not entered in the agenda of the Rajya Sabha. The Rajya Sabha has no power to reject or amend a money bill. It can delay a money-bill for fourteen (14) days only.

(a) In a joint session, the supremacy of the House of the People prevails over all members of States because the Speaker of the House of the People presides over all joint sessions of the Houses. Moreover, the Lok Sabha has a total membership of 542 and the total membership of the Rajya Sabha is only 120. Thus the Lok Sabha has a preponderance of members over the Rajya Sabha.

(b) The House of the People controls the Council of Ministers. The Ministers are responsible to the House of the People. They are appointed by the Ministry of the Government. The House of the People can remove the Council of Ministers by a vote of censure.

The House of the People is superior to the House of the Rajya Sabha because it has special powers which the Constitution has not given to the latter.

(c) The House of the People is superior to the House of the Rajya Sabha because it has special powers which the Constitution has not given to the latter. The House of the People is superior to the House of the Rajya Sabha because it has special powers which the Constitution has not given to the latter.

(d) The House of the People is superior to the House of the Rajya Sabha because it has special powers which the Constitution has not given to the latter. The House of the People is superior to the House of the Rajya Sabha because it has special powers which the Constitution has not given to the latter.

In spite of all these, the House of the People is not a perfect body. It is not a perfect body because it is not a perfect body. It is not a perfect body because it is not a perfect body. It is not a perfect body because it is not a perfect body.

But the House of the People is not a perfect body. It is not a perfect body because it is not a perfect body. It is not a perfect body because it is not a perfect body. It is not a perfect body because it is not a perfect body.

The House of the People is not a perfect body. It is not a perfect body because it is not a perfect body. It is not a perfect body because it is not a perfect body. It is not a perfect body because it is not a perfect body.

Q. 32 Discuss, in details, the function of the Indian Parliament.

Or

Critically examine the powers and functions of the House of the People in India.

Ans. According to the Constitution of India, the Union Legislature is called Parliament. It consists of the President and two Houses known respectively as the House of the People or the Lok Sabha and the Council of States or the Rajya Sabha. We are not a federal country though there is a federal legislature at the Centre. The House of the People safeguards the supremacy of the Lok Sabha in the legislative and administrative spheres.

The House of the People is the House of the People. It is the House of the People. It is the House of the People. It is the House of the People. It is the House of the People.

The House of the People is the House of the People. It is the House of the People. It is the House of the People. It is the House of the People. It is the House of the People.

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in the government the grievances of the people against it. In short, our Parliament serves as a forum of discussion where ideas and opinions are assessed and transformed into the shape of decisions.

Further, Parliament in India is the maker of the Union Council of Ministers. For the members of the Central Ministry are taken from parliament. Again, the Union Legislature, particularly the Lok Sabha, is a training centre where men are tested for practical statesmanship. In our Parliament controls the administration by bringing to light the mistakes of the Union Government by means of questions and adjournment motions. The ministers are bound to answer those questions put by the inquisitive members of parliament. In our parliamentary democracy the tenure of the ministry depends upon the House of the People or Lok Sabha. It means that the Council of Ministers remains in office so long as it commands the confidence of the Lok Sabha. If the House of the People is dissatisfied with the policies and activities of the ministers, it may pass a vote of no-confidence against them. In that case, the Union Council of Ministers must resign from office.

Another function of our Parliament is to exercise control over the finances of the Central Government. After the budget is prepared by the Cabinet, it is submitted for the approval of Parliament. However, in financial matters, the authority of the Lok Sabha is final. For the money bills can originate only in the House of the People. Any money bill passed by the Lok Sabha cannot be disapproved by the Rajya Sabha. We are to note that the Union Government has no power to collect taxes or spend money unless the budget is approved by Parliament. Therefore, the Central Legislature has the sole power to decide what new taxes shall be levied, and how the revenues received shall be spent by the various departments of government. Moreover, Parliament controls the purse of the nation effectively through several Committees viz. the Estimates Committee, the Public Accounts Committee and the Comptroller and Auditor-General.

The Indian Parliament also performs several other functions. Parliament has the exclusive power to introduce a bill for the amendment of the Constitution. Again, the emergency powers of the President of India are subject to the control of the Parliament. It means that no emergency can be valid after one or two months

unless it is approved by the Union Legislature. Moreover, both Lok Sabha and the Rajya Sabha are in the elections and impeachment of the President and the Vice-President of India. Further, the Judges of the Supreme Court and the High Courts are appointed by the President on the report of the Parliament. Above all, the Parliament may declare war, make peace and declare states of war as well as declare a state of emergency. The Legislative Councils in States Legislatures.

Q. 3. Discuss the constitutional status of the Parliament of India.

Or,

Is the Indian Parliament a sovereign law-making body?

Or,

What are the limitations on the sovereignty of the Indian Parliament?

Ans. Like our Constitution of the U.S.A. and U.K. India has also a unitary and democratic system. The Central Legislature of India is the Parliament. It consists of the President and the two Houses—the Council of State and the House of the People.

Is India a sovereign state? Is our Parliament a sovereign law-making body like the British Parliament? Is it a non-sovereign legislature like the American Congress?

In many respects, our Parliament is a Parliamentary system of Government like the British system. But the sovereignty of Parliament does not exist in India. Our federal system is similar to that of the American Congress in this respect.

On the other hand, it has been opined that our Parliament is a sovereign body because it is usually consulted after every five years.

It may be pointed out that these arguments are not wholly correct or wholly incorrect.

In England, the parliament is a sovereign legislature. It possesses unlimited powers in matters of legislation. In other words, it can make or unmake any law. It can amend the Constitution or to process the ordinary legislation. The judiciary has no power to nullify the unconstitutional legislation.

But our American Congress is a non-sovereign legislature. Under the Federal Constitution of the U.S.A. Congress alone

As the government the grievances of the people against it. When the Parliament serves as a forum of deliberations where role is assigned and opinions are assessed and influence the shape of decisions.

Further, Parliament in India is the maker of the Union Council of Ministers. For the members of the Council Ministers are taken from amongst it. Again the Union Legislature works with the Lok Sabha as a working body which often are tested for practical statesmanship. Hence Parliament controls the administration by bringing to light the misdeeds of the Union Government by means of questions and answers and motions. The Ministers are bound to answer the questions put by the opposition members of parliament. Thus parliamentary democracy the voice of the people is heard upon the House of the People or Lok Sabha. It is said that the Council of Ministers conducts the business of the Government on behalf of the Lok Sabha. The House of the People is considered to keep the policies and activities of the Government under a close eye of the nation and against the Government use the power of censure. Ministers must resign from office.

[illegible]

The 1994 Public Access Law is very different from the 1992 Public Access Law. The 1992 law gave the President the authority to withhold information from the public. The 1994 law gives the President the authority to withhold information from the public. It means that the President can be held accountable for his actions.

Further it is empowered with the Finance Bill. Moreover both Lok Sabha and Rajya Sabha participate in the elections and appointment of the President and the Vice President of India. Further, the Judges of the Supreme Court and the High Courts are nominated by the President on the report of the Parliament. Likewise all the Parliament may by law alter the names and boundaries of states as well as create or abolish the Legislative Council in States Legislatures.

Q 33 Discuss the constitutional status of the Parliament of India.

Is the Indian Parliament a sovereign law-making body?

What are the limitations on the sovereignty of the Indian Parliament?

Am. take the Constitution of the U.S. and L.K. India has also a federal system of legislature. The Central Legislature of India is the Parliament. It consists of the President and the two Houses—the House of the People and the Council of States.

In 1990, more than 1000 people gathered over the course of the Parliament. It is a sovereign law-making body and our British Parliament? Or is it a non-constitutional body like the Federal Congress?

But here we have adopted the Parliamentary form of Government or the British system. But the sovereignty of Parliament does not exist in India. Our federal legislature is similar to that of America. Congress in this respect.

10. The Government has been ordered that our Parliament is
to be held every five years after every five

⁷ That the way out of the above arguments are not wholly correct or wholly incorrect.

It is a system, and a complete one is a sovereign legislature. It possesses all the powers of a makers of legislation. In other words, it can make or undo any law. It can also amend the Constitution in

... of this legislation. The judiciary has no power to nullify the unconstitutional legislation.

Under this federal constitution, Congress is a non-sovereign legislature. Under this federal constitution of the U.S.A., Congress alone

can make laws on engagem. It subjects only. The Supreme Court may declare a law passed by the Congress as unconstitutional if it is against the provisions of the Constitution.

According to the provisions of the Constitution of India, our Parliament is both sovereign and non-sovereign.

Parliament of India is a sovereign legislature because it alone can amend the Fundamental Rights of citizens and Directive Principles of State Policy in a manner of the Bill of Rights in each House. In this respect, we approach to the State Legislatures is not necessary.

In the other hand, the Indian Parliament is also a non-sovereign law-making body on the following grounds.

(1) Fundamental Rights: It takes away any law which takes away any of the Fundamental Rights of citizens and develop it as the of the Constitution.

(2) Parliament also cannot alter the federal provisions of the Constitution. It requires the signatures of half of the chief executives in all the states. There is a division of powers between the Centre and the States etc.

(3) Further, the Supreme Court says the High Courts are empowered to make laws and subject to this and they do not go against the provisions of the Constitution.

As a conclusion, the Parliament of the India is not wholly sovereign & is not wholly non-sovereign. It is partly sovereign and partly non-sovereign. It is not like the Parliament in England, the Indian Parliament is not a sovereign legislature. On the other hand, like the American Congress, our Parliament is not wholly non-sovereign in matters of legislation.

Let us now turn our attention to the Sovereignty of the Parliament of India.

(a) The President of India has the power to summon and prorogue the sessions of Parliament. Hence, the members of the Parliament have no opportunity to meet if they so desire.

(b) The President may dissolve the House of the People and order a fresh election.

(c) A bill passed in the two Houses of Parliament is sent to the President for his assent. The President may veto a Bill. The President again can issue an ordinance when the Parliament is in

in session. This also involves a serious limitation on the sovereignty of Parliament.

(d) Under the federal structure of India, the Union Parliament cannot generally make laws on a subject included in the State List.

(e) Parliament also cannot make any law which abridges the fundamental rights of citizens.

(f) The President of India is entitled to change the laws of Parliament for the peace and good government of the Union Territory.

Q. 34. What are Public Bills? How are they passed in the Union Parliament of India?

Or,

Describe the different stages through which a Public Bill may become an Act of Indian Parliament.

Or,

Describe the process of ordinary law-making in the Indian Parliament.

Ans. The main function of the Parliament of India is to make laws for peace and good government of the country. There are two kinds of bills which are enacted by the Union Parliament. They are: (a) Public Bill (b) Money Bill. A public bill is that bill which deals with general interests of the country.

The different stages which are required for passing a public bill may be discussed below.

First Reading and First Reading: According to the Constitution of India, a public bill may be introduced either in the House of the People or in the Council of States. But the important public bills are generally introduced in the House of the People. A member or a private member of the House has the right to initiate a public bill. A private member must give a notice to the Speaker for the introduction of a bill. It must also be published in the Gazette. At this stage, there is no debate. The mover of the bill, if he desires, may give a short speech describing the aims and objects of the bill. The introduction of the bill is also known as the First Reading of the bill.

Committee Stage: Then the mover of the bill may propose one of the following courses.

(a) The bill may be taken into consideration or (b) The bill may be sent to a Select Committee. If (a) The bill may be

referred to a joint Committee of two Houses or Parliament as (d). The bill may be circulated among the people.

The bill may be referred to a select Committee of the House where it originated. The members of the Select Committee are appointed from among those members of the House who have special knowledge on the subject and usually the Committee to scrutinise the bill thoroughly and carefully. The Committee may also propose amendments on the bill. The Committee then submits a report to the House.

Report Stage. At this stage the report of the Committee considered by the House. The Committee's report is discussed among the members. If the report is accepted by the House it goes to the next stage.

See also Reading. This is the most important stage of the bill. Here the bill is discussed in detail and the House

The members may move amendments to the bill. The amendments at this stage are of two kinds: (a) amendments to be accepted or rejected by the House. (b) amendments to be referred to a Select Committee. All amendments are discussed at this stage. The amendments are then discussed in detail and the House is asked to accept or reject them.

See also Reading. This is the most important stage of the bill. Here the bill is discussed in detail and the House is asked to accept or reject it. The bill is then passed by majority votes.

After the bill is passed by the House, it is sent to the President for his assent. The President may give his assent to the bill, or he may withhold his assent, or he may reserve the bill for the consideration of the Council of States. If the bill is reserved, it is sent to the Council of States. If the Council of States also passes the bill, it is sent to the President for his assent. If the Council of States rejects the bill, it is sent back to the House. If the House passes the bill again, it is sent to the President for his assent. If the President withholds his assent, the bill is sent back to the House. If the House passes the bill again, it is sent to the President for his assent.

President's Assent. When a bill is passed by the House, it is sent to the President for his assent. The President may give his assent to the bill, or he may withhold his assent, or he may reserve the bill for the consideration of the Council of States. If the bill is reserved, it is sent to the Council of States. If the Council of States also passes the bill, it is sent to the President for his assent. If the Council of States rejects the bill, it is sent back to the House. If the House passes the bill again, it is sent to the President for his assent. If the President withholds his assent, the bill is sent back to the House. If the House passes the bill again, it is sent to the President for his assent.

Q. 3. What are money Bills in respect of the Indian Union under the constitution? Describe fully the procedure laid down in the Constitution for the passing of Money Bills by the Union Parliament.

Or,

What is a Money Bill. Carefully describe the procedure in introducing and passing a Money Bill in the Union Parliament.

Ans. According to Art. 110 of the Constitution of India, a bill is deemed to be a money bill if it contains all or any of the following provisions: (a) the imposition, abolition, alteration of rates or taxes, (b) the borrowing of money by the Government of India, (c) the custody of the Consolidated Fund and the Contingent Fund of India, (d) the appropriation of money out of the Consolidated Fund of India, (e) the declaring of any expenditure to be a charge on the Consolidated Fund of India, (f) the audit of the accounts of the Union or of a State.

If a bill is not declared to be a money bill simply because it contains provisions for the imposition of taxes or penalties or simply for the abolition of taxes or impositions, abolition, or regulation of any tax by any local authority.

The Speaker of the House of the People is empowered to declare whether a particular bill is a money bill or not. If a bill is declared to be a money bill, it is sent to the Council of States or by the Supreme Court of India.

When a money bill is transmitted to the Council of States or to the President for his assent, it must be signed by the Speaker of the House of the People.

When a money bill is passed by the House of the People, it is sent to the Council of States or by the Supreme Court of India.

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When a money bill is passed by the House of the People, it is sent to the Council of States or by the Supreme Court of India.

No money bill can originate in the Council of States (Rajya Sabha). So far as the money bills are concerned, the supremacy of the House of the People prevails over the Council of States, though it is placed before both Houses of Parliament. In India, the process of passing of money bill in Parliament differs from that of passing a general bill. The members of the Lok Sabha may discuss the financial policy of the government. Amendments are made on the bill. All expenditures are voted except those expenditures which are charged upon the Consolidated Fund of India. With a majority support behind it, the ministry can easily pass the budget.

When a money bill is passed by the House of the People, it is sent to the Council of States for its ratification. The Constitution of India states that the Rajya Sabha has no power to reject or amend a money bill. It can only make recommendations. But these recommendations may be accepted or rejected by the House of the People. The Council of States can delay a money bill at the most for a maximum of one month. The Council of States does not return the money bill to the House of the People within the period of fourteen days, it is considered to have been passed by both the Houses of Parliament.

In this connection, it may be pointed out that the British House of Lords can delay a money bill for a period of one month only. The American Senate possesses the power of approving the contents of the money bill except its title.

The Council of States in India cannot delay a money bill for more than 14 days.

After a money bill has been finally passed by the House of the People and the Council of States, it is presented to the President of India for his assent. It is a convention that the President does not withhold his assent from a money bill passed by Parliament.

Q. 36. Discuss the Committee System of the Indian Parliament.

Ans. In modern times, the work of legislature has become complicated and almost insuperable, overburdened with work. It is neither time nor thought to deal with all kinds of legislative business. Therefore, the legislature makes use of its Committees. These Committees play a vital role in the field of legislation. They consider and examine the bills referred to them and

make use of expert suggestions. It can give its valuable opinion to the members of

Indian Parliament like its counterpart in other democratic countries performs the business of legislation through several committees. In Parliamentary Committees have been formed on the British model. In spite of this, Committees of Indian Parliament have departed from the British system and drifted towards Congressional ones, but have not attained the status of the latter.

In India, a large number of Parliamentary Committees has been set up to help both Houses to discharge the law-making functions in a speedy and efficient manner. The House of the People, Lok Sabha, alone has twelve such Committees. The Joint and Committees of Indian Parliament may be discussed below.

Business Advisory Committee. It consists of 15 members. They are appointed by the Speaker for one year. The leaders of the different political parties are actively associated with this Committee. The Speaker acts as the Chairman of the Committee. The main business of this Committee is to control the time-table of the House. The Committee may also make recommendations as to how much time should be given for the discussion of the various stages of a bill. The Business Advisory Committee submits its recommendations to the House which the latter also adopts in its own way.

2. Select Committees. These Committees are constituted whenever it is felt that the said bill be referred to a Select Committee to consider and to report. The actual number of Select Committees is not fixed. The Committees are formed as and when required in the House for the examination of bills. The members of the Select Committees are elected or appointed by the House. The Speaker selects a member of the House to act as the Chairman of the Committee. The Committee examines the bill clause by clause and makes substantial amendments on the bill. The Committee then submits its report to the House.

3. Joint Committees. These Committees help the House to carry out its business of legislation smoothly. The Joint Committee consists of members of both House of Parliament. It avoids overlapping of legislation and thereby saves time of Parliament.

existing conditions generally means the enormous salaries of the Cabinet Ministers, the Prime Minister, the High Court judges, the judges of the High Courts, the Judges of the Supreme Court, the salaries and allowances of the President, the members of the Supreme Court, these expenditures are charged upon the Consolidated Fund of India etc. The Government is not entitled to raise direct money out of the Parliament. No private member of Parliament has the power to introduce a bill or a proposal of private kind expenditure must come from the Minister of the budget is very complicated & is not intelligible to the ordinary members of Parliament & also indirectly keeps the Government out of the functioning system.

There is a wall the Party erects in the Cabinet which could do it - not if one of us joins the Cabinet with the principal intention of not allowing the Party to do such a thing. If members of the Party in the future do such a thing, let them do it - but if one of us joins the Party to help the Cabinet in this matter

24. Hear the powers and position of the Speaker of the House of the People (Lok Sabha)

54

Lowering the position is far in front of the Speaker of the Lok Sabha and you think that language is at the most, perhaps, with him and the Speaker. Since you are sitting

Ans: In addition to the above, we have a duty if we believe it our people's best to speak up. It speaks to other Americans about the importance of free speech and a new sense of complete independence and autonomy.

[illegible]

is a the distinctive features of the style of the language is
 but in the of the has it not even when the the

Two Speakers is elected to the House

The prerogative of the speaker is seen from the powers and functions and responsibilities mentioned. The speaker possesses almost the same powers as the speaker of the British House of Commons. The speaker presides over the meetings of the House. The primary duty of the speaker is to control debate. It is his duty to ensure that parliamentary time is used properly. He has the authority to suspend a member if there is no question. He may suspend a member for the day. No member of the Lok Sabha has the right to speak without his consent. The members of House of the People address the speaker only. He interprets the rules of procedure of the House.

In the House of the People voting takes place under the direction of the Speaker. It is his duty to declare the final result. The Speaker is not entitled to vote in the first instance. But he may exercise a casting vote in case of a tie. The decision of the Speaker is final in the matters which a particular law is a matter of law or fact. The Speaker decides whether a member of the House will be disqualified or be allowed to speak in his mother tongue. The Speaker also presides over the joint sitting of both Houses of the Indian Parliament by the President of India. He presides a law committee or committee of the House of the People. It is his duty to see that the rights and privileges of the Members from the Local Municipalities to the ordinary members of the House of the People. It is again the Speaker who maintains a close contact between the President and the House of the People.

At the inaugural conference of the Speaker of India, held at Delhi it has been pointed out that the Speaker should not do anything which makes it impossible for the minority to seek a vote of confidence of the House. The Speaker cannot stem the inherent tide to comprise the House because the legislature is a compromise between the Speaker. Again, the Speaker has no power to take the Government outside of any minority. In other words, he has no power to declare a minority legal or illegal. The first and foremost duty of the Speaker is to enable the House to function as a democracy. He should discharge his duties independently and impartially.

So in the position is concerned, our Speaker stands midway between the British Speaker and the American Speaker.

The Eighth Speaker gives up his party colours as soon as he is appointed as Speaker. He does not attend any party meeting or conference. He has no politics. The American Speaker, on the other hand, does not cut off his relation with his party in the Congress. He is an active politician. The Speaker in the U.S.A. always helps his party members inside the Congress.

In this the speaker is not uttering a statement of fact. He is not "saying the white flower is a beautiful color as it is." The speaker's office is merely "attesting" a fact as a proposition. Once a speaker attests a proposition, he has no more to say about it.

[illegible]

Q 4. What are the constituent parts of the Indian Parliament?
 Ans. The sole entity is known as the passing of an Act.

Radiation are the President and the two Clergymen—

Courtesy of States Ranga Subhaw

People represents the national interests.

to be of the opinion that the rights of non-citizen individuals should be through the Council of States (Rajya Sabha).

Результат

He can also dissolve the House of the People before the expiry of its term of 5 years. No financial emergency can be declared without the approval of the President.

Second, the House of Lords plays an important role in the passing of an Act.

[illegible][illegible]

4. If the bill is passed by the House of Commons, it is then sent to the House of Lords. If the House of Lords rejects the bill, the Government may try to pass it again. If the House of Lords rejects the bill a second time, the bill is sent back to the House of Commons. If the House of Commons passes the bill a second time, it is then sent to the President. The President may give his assent to a public bill, or he may refuse to give his assent to the bill. If the President refuses to give his assent to the bill, the bill is sent back to the House of Commons. If the bill is again passed by the House of Commons, the President cannot refuse to give his assent. If the President gives his assent to the bill, it is a law. If the President refuses to give his assent to the bill, it is a veto. If the President gives his assent to the bill, it is a law. If the President refuses to give his assent to the bill, it is a veto. If the President gives his assent to the bill, it is a law. If the President refuses to give his assent to the bill, it is a veto.

Q. 40 Critically discuss the composition and functions of the Council of States in India.

Or.

Describe the composition and functions of the Rajya Sabha.

Ans. The Constitution of India envisages a bicameral form of legislature at the Centre. The Union Legislature is called Parliament. Art. 79 of the Constitution provides that Parliament consists of the President, one House of the People and the Council of States. The second chamber of Parliament is usually known as the Council of States or Rajya Sabha.

The Council of States is an upper House representing the States. It represents the smaller States. The Council of States consists of representatives of the States and the Union. The Rajya Sabha consists of 12 members. Six of them are elected and the other six are nominated by the President. The members of the Rajya Sabha are elected by the members of the Legislative Assemblies of the States and the Union.

The members of the Rajya Sabha are elected for six years. They are eligible for re-election. The members of the Rajya Sabha are elected by the members of the Legislative Assemblies of the States and the Union.

The members of the Rajya Sabha are elected for six years. They are eligible for re-election. The members of the Rajya Sabha are elected by the members of the Legislative Assemblies of the States and the Union.

The remaining twelve members of the Rajya Sabha are nominated by the President. They are elected for six years.

The members of the Rajya Sabha are elected for six years. They are eligible for re-election. The members of the Rajya Sabha are elected by the members of the Legislative Assemblies of the States and the Union.

Besides the 12 members of the Rajya Sabha, the members of the Rajya Sabha are elected for six years. They are eligible for re-election. The members of the Rajya Sabha are elected by the members of the Legislative Assemblies of the States and the Union.

The members of the Rajya Sabha are elected for six years. They are eligible for re-election. The members of the Rajya Sabha are elected by the members of the Legislative Assemblies of the States and the Union.

the Council of States must be a citizen of the India and that he must be thirty years of age. (b) The other half, a person is not qualified to be elected a member of the Council of States (a) if he holds any office of profit under the Government of India or the Government of any State (b) if he is of unsound mind (c) if he is an undischarged insolvent.

The Council of States is a permanent body and is not subject to dissolution. The term of its members retire after every second year. The normal term of a member of the Council of States is six years.

As per Art. 89 of the Constitution, the Vice-President of India is the ex-officio Chairman of the Council of States. The members of the Council of States elect another member to be its Deputy Chairman. However, when the Vice-President acts as, or discharges the functions of the President, the duties of the Chairman are performed by the Deputy Chairman.

In order to constitute the Second Chamber usually representing the legislative body, an important role is played by the members of the Indian Constitution, the Council of States performs a significant function and it retains respect even in the sphere of the House of the People.

The Rajya Sabha is an indispensable part of the Union Parliament. It has a decisive role in legislative business of the Government of India. The Council of States enjoys equal powers with the House of the People in matters of ordinary legislation. It can introduce a bill. No bill can become an act unless it is passed by the Rajya Sabha. In case of deadlock between the House of the People and the Council of States, a joint sitting of the Lok Sabha and the Rajya Sabha is summoned by the President to sort out the differences. The Rajya Sabha makes laws on the Union List.

The Rajya Sabha makes laws on the Union List. It also legislates subjects included in the Concurrent List and its laws shall prevail over the laws of the State Legislatures. The Rajya Sabha also conflict with the Rajya Sabha. The Council of States is also empowered to legislate on ordinary subjects. In Rajya Sabha, an act made laws on State Subjects in the Concurrent List and supplemental international agreements.

The Rajya Sabha has been described as an organ of the Rajya Sabha. It has been described as an organ of the Rajya Sabha. It has been described as an organ of the Rajya Sabha.

represented the erstwhile Princes who also were made for the representation of seats in the Lok Sabha for the Scheduled Castes and Scheduled Tribes.

The Constitution of India requires the renunciation of citizenship for becoming a member of the Lok Sabha. This is so to ensure that a member of Lok Sabha, for not less than a year or up to twelve years, the Union Parliament may also give any other qualification for the purpose.

The normal tenure of the Lok Sabha is five years. However, during the operation of a proclaimed National Emergency, it can be extended for one year at a time.

The House of the People elects a Speaker and a Deputy Speaker. It is among its members the office of the Speaker carries prestige and dignity. He presides over and conducts the meetings of the House.

Divided and Unified House. In India we have a federal type of government. But, unlike America's Congress, which is not a sovereign law-making body, this is the reason that the House of the People cannot enjoy absolute power in matter of legislation. However, the Lok Sabha is more powerful than the other House, viz. the Council of States. The powers and functions of the Lok Sabha are as follows:

Executive Power. The Lok Sabha is the first legislative organ to pass a great number of laws making the Government of India empowered. The Lok Sabha takes up a bill and Lok Sabha and the Council of States. The approval of both Houses is necessary for the passage of a bill. Among which the Rajya Sabha is the Lok Sabha has the power to initiate and amend laws. From time to time, the Rajya Sabha has passed a resolution in the national interest if there is a proclamation of National Emergency in the country. It is only the Lok Sabha which can make such a request. The Lok Sabha has the right to impeach the Rajya Sabha in regard to a public bill. No bill can be passed without the approval of the Lok Sabha. The Lok Sabha has a constitutional deadlock between the Rajya Sabha. It has the power to summon a joint sitting to resolve the conflict.

A. Financial Power. The Lok Sabha has a Vice President

power. A money bill can be introduced in Lok Sabha only. The Rajya Sabha cannot reject or amend money bills passed by the Lok Sabha. If it is not done within 14 days only.

The Lok Sabha has the power to spend money unless the budget is passed in the Lok Sabha. It also controls the financial policies of the Union Government through the Estimates Committee and the Public Accounts Committee.

C. Executive Power. The Lok Sabha is a decisive role in the formation of the Union Council of Ministers. For most of the members of the Council are taken from the Lok Sabha. The Prime Minister also belongs to the House of the People. The Ministers are collectively responsible to the Lok Sabha for the policy and execution of the Central Government. The members must answer the questions put by the Opposition parties in Parliament. The Lok Sabha may dismiss a ministry by a vote of non-confidence.

D. Executive Power. The members of Lok Sabha take part in the election of the President and the Vice President of India.

E. Judicial Power. The Lok Sabha along with the Rajya Sabha may pass a resolution to impeach the President and the Vice President of India and also make recommendations to the President on the removal of the judges of the Supreme Court.

F. Constitutional Power. The Lok Sabha has the power to initiate and amend laws. No part of the Constitution can be amended without the formal assent of the House of the People.

G. Executive Power. The Lok Sabha may create a New State or alter the boundaries of existing States. It also plays an important role in the retention or abolition of second Chambers in State legislatures. The Lok Sabha may make laws in conformity with the provisions of the urban Constitution. For, it has the power to review them.

Q. 1. Discuss the privileges and immunities of the members of Parliament of India.

Ans. There are two constitutional law and in the arena of Parliament the expression "privilege and immunity" signifies the special rights of Lok Sabha or Rajya Sabha. These rights are generally accepted as necessary

[illegible]

Privileges are classified in two groups — those which are enjoyed by one or more orders — such as by some members of the Italian Senate with National Council of Parliament — the only one in the world — and Parliament has not yet created its privileges. In the privileges for its representatives in the House of Commons are the privileges and that is of force in England.

1. Die erste Gruppe ist die Gruppe der "Kleinrentner", die aus den Rentnern besteht, die eine monatliche Rente von bis zu 100 Euro erhalten. Diese Gruppe ist die größte und umfasst etwa 40 Prozent der Rentner.

It does not seem to be true for the non-physical. The
 up to the 1950s, a number of people have been quoted as saying that
 "I never thought that the world was going to be a reality
 of the present day. It was just the dream of the present day."
 In expressing this view, they were not wrong. However, they were wrong in

The wish to amend the Bill is therefore, contrary to the necessity of every parliament to pass legislation without delay or delay to the argument only in a narrow and limited debate. On 11 June 1995, however, the House of Commons passed the Bill by a vote of 321 to 171. The House of Commons is the only House of Parliament that has the power to pass legislation. The House of Lords is a chamber of appeal and its role is to advise the House of Commons on the merits of legislation. It is not a court of appeal and its decisions are not binding on the House of Commons. The House of Lords is a chamber of appeal and its role is to advise the House of Commons on the merits of legislation. It is not a court of appeal and its decisions are not binding on the House of Commons.

32. It is a fact that in the past few years, in this connection, there have been clashes between the people and the police. It is guaranteed to the members of the armed and irregular forces as granted to the people under Article 19 (1) (a) of the constitution.

Under the proposed Bill, the members of Parliament also enjoy freedom from arrest. This freedom is understood that in such circumstances as need it a civil case, 40 days before and after the adjournment of the House Lok Sabha or Rajya Sabha and also when the House is in session. It also means that in paragraph 21, on arrest within the precincts of the Parliament building or premises of the House to which he/she belongs. When a member of the House is arrested or detained, the authorities concerned should immediately inform the speaker or the Chairman regarding the reasons for such arrest. A member can be arrested outside the walls of the House on criminal cases under the Prevention of Corruption Act, PMA, POCSA or any other such Act.

an *introduction* of *affidavits* as *evidence*. The members of Parliament enjoy freedom to use affidavits as proofs of evidence. A more direct attack on the subpoenaed witness is the use of the House. The speaker can act as a witness when Parliament is in session.

the House of the House talk with. There are some other passages also which are of the same kind. In the House of Commons, the right to publish debates and proceedings. Through a convention, the Parliament does not think it proper to publish its proceedings, yet technically the House has every right to do so. Again, while a member has the privilege of freedom of speech in the House, he has no right to publish it outside Parliament. And he is also responsible for any libellous matter which he publishes. The House of Commons has the right to punish its members and visitors, from the galleries and the doors and the streets, decorated with closed doors. The House of Commons has the right to punish members and outsiders for the use of its premises. In India, the Parliament has been given a power to punish those who are adjudged guilty of

[illegible][illegible]

ω is the angular frequency of the i th satellite in the (mean) Poincaré[1].

And when I heard a voice in the City
that told me a nation was upon the
point of the sword of the Lord,
he country with the Father of our redemption
on the point of the sword of the Lord,
as the time of the day of the Lord.

Parliamentary tenants of the President and two Houses known as
of the people is variously known as the lower chamber of
Parliament. Its fact, that is not correct. Such a summation

The House of Representatives of the United States is a body of 435 members, elected by the people of the United States. It is the lower house of the United States Congress, the other being the Senate. The House is composed of members from each of the 50 states, the District of Columbia, and the territories of Puerto Rico, Guam, American Samoa, Northern Mariana Islands, and the Virgin Islands. The House is presided over by the Speaker of the House, who is elected by the members of the House. The House has the power to initiate and pass legislation, to impeach and remove federal judges and other officials, and to declare war. The House also has the power to approve or reject appointments made by the President and to confirm or reject treaties made by the President. The House is a body of representatives of the people, and its members are elected to represent the interests of their constituents.

the danger of losing the Angolan-born community. As its president, José Santos Silva, he has personally been involved in the people of the Indian nation.

[illegible]

The first stage of the process is the initial data collection. The data is collected from the various sources and is then processed and analyzed. The results of the analysis are then used to develop a model of the system. The model is then used to simulate the system and to predict its behavior. The simulation results are then used to develop a control strategy for the system. The control strategy is then implemented and the system is monitored and controlled.

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific information required.

2. The second step is to gather relevant data and information. This can be done through research, interviews, or other methods.

3. The third step is to analyze the data and information. This involves identifying patterns, trends, and relationships.

4. The fourth step is to draw conclusions and make recommendations. This involves synthesizing the findings and providing a clear answer to the original question.

5. The fifth step is to communicate the results. This involves presenting the findings in a clear and concise manner, using appropriate visual aids.

But we should not forget that—as the nationalism of the Indians, and Lok Sabha has consistently reflected their feelings, hopes and aspirations. Its achievements in the various fields—political, social and economic—have been considerable. Speakers have been among the speakers of the Lok Sabha. The traditions and customs of the people are of extremely high order. However, there is change over the years in the character, composition and style of functioning in the Lok Sabha because the members have changed and new people entering the Lok Sabha and the rules of the game have also been necessarily changing slowly.

7

GOVERNMENT IN THE STATES

Q.44 Describe the powers and position of the Governor of an Indian state.

Or

Discuss the role of the Governor in the administration of a State.

Ans. Under the Constitution of India, the machinery of the State Government is the same as that of the Central Government. Like the Union Government, the State Governments are also founded on the principle of unity. So the chief executive of a State, that is the Governor, carries the President of the Union Government. Like the President, the Governor is also a nominal head and a ceremonial figure. He is not a real functionary. Generally speaking, the executive acts on the advice of the Council of Ministers.

The Governor is appointed by the President of India. He holds office during the pleasure of the President. Under the Constitution of India, the Governor of a State possesses wide executive, legislative, judicial, financial and military powers. He is now the constitutional head of the Government of an Indian State.

(i) Executive: The executive power of the State is vested in the Governor. He exercises that power either directly or through officers subordinated to him. All executive actions of the State are taken in the name of the Governor. He also makes the necessary arrangements for the proper management or transaction of the business of the Government of the State. The Governor appoints the Chief Minister of the State. Other ministers are also appointed by the Governor on the advice of the Chief Minister. The ministers are called the Council of Ministers. The Minister hold office during the pleasure of the Governor. He has also the power to appoint the higher officers of the State including the Advocate-General and the members of the State Public Service Commission. He has also a share in the appointment and removal of Judges of High Court. He is responsible for the administration of the welfare schemes of the scheduled castes

and the backward States. He may appoint a minister for the purpose. The Governor has the exclusive right to admit the delegates of the Council of Ministers dealing with administrative affairs of the State and the proposals for legislation. But like the President of the Union, the Governor has no diplomatic or military power.

(2) Legislative — The Governor is a constitutional and indispensable part of the State Legislature. In some States, the State Legislature consists of the Governor and one House, the Legislative Assembly, while in others it is bicameral and the two Chambers known as the Legislative Assembly and the Legislative Council. The Governor possesses no power to introduce or promulgate laws of the State Legislature. He can only resolve the Lower House—the Legislative Assembly—on the expiry of its term.

The Governor has been authorised by the Constitution to deliver to the Legislature of the State a message at the opening of the first session of the year. He has power to send messages to the State Legislature. He has power to nominate or re-nominate a member to the Legislative Council. The Governor has to nominate one member to the Legislative Council from among the persons who have acquired special knowledge in the field of science, art, literature or sports and games.

In a State, a public bill cannot become an Act without the approval of the Governor. A bill passed by the State Legislature is presented to the Governor for his assent. The Governor may give his assent to the bill, withhold his assent or reserve the bill. If he reserves a bill, it is sent to the President of the State Legislature for his assent. The Governor may also reserve certain bills for the assent of the President.

When the State Legislature is not in session, the Governor may proclaim emergency. He may proclaim emergency if the State Legislature is not in session for a period of six months. He may also reserve certain bills for the assent of the President.

(3) Executive — The Governor has no executive powers. He

money bill can be introduced in the State Legislature without the recommendation of the Governor. In every year, the budget is laid before the State Legislature by the Governor. No proposals for creation or expenditure can be made without the approval of the Governor.

(4) Judicial — The Governor also exercises judicial powers. He has the power to grant pardons, reprieves or remissions of punishment to any person who has been convicted by courts of law. He has also a great share in the appointment of the judges of the subordinate courts.

Besides the Governor of a State also enjoys discretionary powers. As for example, the Governor of Assam can exercise the administration of the tribal areas independently of his ministry. Again, the Governor of a State when he is appointed as the administrator of an adjoining Union Territory may exercise his functions without the advice of the Council of Ministers.

It is true that Governor is a constitutional ruler and a nominal figure. But he is not a rubber stamp either of a rubber stamp. The Governor enjoys wide powers in executive, legislative and financial spheres. He can exercise certain powers in his own discretion. The Governor has the power to advise, to encourage and to warn the ministry irrespective of their party colour. The office of the Governor depends upon the personality and ability of the person who occupies it. If the Governor is a man of strong personality, he can easily influence his ministry. A weak and lazy Governor on the other hand, will be influenced by the ministry. He will then exercise the functions according to the directions issued by the Council of Ministers.

Q. 45. Discuss the relationship between the Governor and his Ministers. In what respect does the principle of Cabinet responsibility in the State differ from that in the Union?

Or,

Discuss the role of the Governor in an Indian State and indicate his relations with the Council of Ministers.

Or,

Discuss the constitutional relationship between the Governor of a state and his Council of Ministers. Can the Governor act independently of the Ministers? If so how and when?

Ans. The Constitution of India has accepted the Parliamentary

form of Government both at the Union and in the States take the President of the Union, the Governor of a State as a normal figure. The Council of Ministers monopolises the real powers of the State.

According to the provisions of the Constitution, the executive power of a State is vested in the Governor. And this power is exercised by him either directly or through officers subordinate to him. The Constitution also provides for a Council of Ministers with the Chief Minister as its head to aid and advise the Governor in the exercise of his functions. The Governor appoints the Council of Ministers including the Chief Minister of the State. They hold office during the pleasure of the Governor.

The Governor thus exercises with wide powers, the functions he exercises, legislative, judicial and administrative. But under the parliamentary system of administration, the Governor shall have to exercise these powers with the aid and advice of the Council of Ministers. Therefore, the Governor is a constitutional functionary. The actual power belongs to the Council of Ministers headed by the Chief Minister. In Governor's discretion, he may at his absolute discretion, in urgent cases, suspend or withhold the assent of the State Legislature to a bill or he may reserve an ordinance for the consideration of the President. In all other cases, he is bound to follow the advice of the Council of Ministers. His position is like that of the King in a constitutional monarchy.

And the Constitution has authorised the Governor to exercise certain functions at his discretion. In other words, the Governor is empowered to exercise certain functions without the aid of the Ministers. Again, the decisions of the Governor in the exercise of the discretionary powers of his office are not subject to any law. Here lies the difference between the Governor and the President. The President is bound to exercise his powers in accordance with the advice of the Council of Ministers.

The distinction between the Governor and the President of the State clearly lies in that in the Union, the Governor of Assam can exercise the administration of the tribal areas without the advice of his political Ministers. But the Governor of Assam

has the power to settle disputes that arise between the Government of Assam and the District Council in connection with the share of mining revenue. Again, the Governor of State when he is appointed as the administrator of an adjoining Union territory, is entitled to exercise the full and independent authority of his Council of Ministers. The Governors of Central, Sikkim and Arunachal Pradesh also have special responsibilities.

The Governor may use his discretion in certain cases even when he can dispense with the advice of Council of Ministers.

First, if a party does not secure a majority in the legislature, the Governor may appoint an outsider as the Chief Minister of the State.

Secondly, the Governor may dismiss a ministry without the sanction of the legislature when the ministry is responsible.

Thirdly, the Governor may dissolve the Legislative Assembly of the State.

Fourth, he may reserve a bill passed by the State Legislature. His veto is absolute.

Fifth, he may reserve a bill passed by the State Legislature for the consideration of the President.

Sixth, the Governor has the right to know the administrative affairs of the State and to preside in the legislature. He can call for any information which the Ministers are bound to furnish.

Seventh, he may, at any advice, the President to proclaim an emergency in the State. He is authorised at the discretion of the State to suspend or withhold the assent to a bill in accordance with the provisions of the Constitution.

Eighth, the Governor has the right in stepping over certain portions of the State when he is required to deliver on the opening day of the new Assembly.

When the Governor exercises his discretionary powers, he is not bound to consult the Union Government. The Central Government may advise the Governor. But in the exercise of his discretionary powers, he is bound to accept the advice of the Council of the State.

It has been suggested that the President of India, under Art. 53, may exercise the discretionary powers of the Governor. But the President should seek the opinion of the Supreme Court before exercising his discretionary powers so that the

constitutional and legal interpretation of the matter should become clear to all concerned.

But the Governor is neither a dignitary either nor a rubber stamp. The Constitution has vested wide powers in the hands of the Governor. He also enjoys discretionary powers. As the executive head of the State, it is the duty of the Governor to advise, encourage and warn the Council of Ministers irrespective of the political party to which he belongs. He is the chief agent and the adviser of the President. The Governor maintains a close relationship between the Central Government and the State Government. It may be said that the primary relationship between the Governor and his Council of Ministers depends upon the personality of the Governor. Some Governors are possessed of towering personality, and can easily control the Ministry. But a weak and lazy Governor can be easily influenced by the Ministers.

Q. 46. Discuss the constitutional position of the Governor of an Indian State in relation to the President of India. Would you advocate the abolition of the office of the Governor?

(3).

Even as the constitutional position of the Governor of an Indian State will speak in reference to his relation with the Union Executive.

As according to the Constitution of India there is a Governor in each State. He acts as the head of the State. The Governor occupies a dual position, as he is the representative of the powers and honours of the State, and as he is the representative of the Union. The Governor holds his office as an agent of the President. The President or the Union Executive controls the day-to-day administration of the State through the Governor because the Governor acts as an agent of the President. He maintains a close contact between the Centre and the State. The Governor is to see that the laws of the Union are properly executed in the State. He is to ensure that the laws of the State are not in violation of the laws of the Union. If he is satisfied that the Government of the State is not carried on in accordance with the provisions of the Constitution, he may advise the President to remove the Government. The Governor is also the representative of the President in the State for the purpose of the President's powers.

may give his assent to the bill or he may withhold his assent, thereby he may be also seek advice from the President in the matter of passing an ordinance.

The position of the Governor as an agent of the Union Government carries down much influence to the activities of the State Government. As an agent of the President, he finds himself in a better position to influence the affairs of the State. The Governor always tries to impose the attention of the Union Government on the executive of the State. He cannot exercise any power against the wishes of the Centre because he holds office during the pleasure of the President. In normal times and in ordinary affairs of the State, the Governor does not interfere with the work of the popular ministers. But in abnormal times and in important matters of the State, the Governor may be called upon by the Union Executive to work as a link between the Union and the State for the interest of the States. The Constitution empowers the Governor to exercise certain powers in his discretion. Here also the Governor is to act under the direction of the Union Government. In practice, the Governor can have no discretion as his own executive is the Union Executive which has to do under a strict discipline. It seems that in other matters, the Union Executive has no power to supervise the affairs of the State. Although the Governor is a nominal executive, still his position is parallel to a linking force between the Union Government and the State Government.

Under the parliamentary democracy of India, the Governor is a constitutional agent and he is also the ceremonial head of the State.

Technically speaking, the Constitution has vested the executive, legislative and judicial powers in the hands of the Governor. But, in actuality, all these powers are exercised by him in accordance with the advice of his Council of Ministers. Therefore, the Council of Ministers recognises the real power of the State. Some say that the Governor of an Indian State is a magnificent figure and a dignitary. He has no effective power. Hence, the office of the Governor should be abolished. It is a costly office and a costly dignity. The only function of the Governor is to act as an agent of the President when the latter exercises his powers in the State. It has

best and that there is no function which the Governor can exercise in his discretion. He always acts on the advice of the responsible ministers.

But the Governor is not a rubber stamp as it seems to be. He exercises a considerable amount of influence over the affairs of the State. He may also use his discretion in certain matters.

Public opinion is not in favour of the abolition of the office of the Governor. The Parliamentary Government requires a nominal executive head. The Governor holds this position. He has the right to advise, encourage and warn the ministry. He may also influence the decisions of the ministry, but he should adopt a non-partisan attitude in the affairs of the State. Therefore the office of the Governor should not be abolished.

Q. 47 "The chief Minister is the real ruler of his State" —

Discuss

Or,

Discuss fully the position of the Chief Minister in relation to the Council of Ministers and the Government in a State.

Answer the position and powers of the Chief Minister of an Indian State.

Ans. The Constitution of India provides for the establishment of the parliamentary or the cabinet form of government in both of the states and in the States. Article 163 states the powers and position of the Chief Minister in a cabinet system of government. The office of the prime Minister of the Union Government like the Prime Minister of the Chief Minister is a constitutional office. He is appointed and holds office at the pleasure of the Governor of the State. The Chief Minister may be described as the chief executive officer of the cabinet system as it operates in a constituent State of the Indian Union.

In India, the office of the Chief Minister is based on the constitutional provisions. According to Art. 163 of the Indian Constitution, there shall be a Chief Minister in the State. The Chief Minister at the head to aid and advise the Governor in the exercise of his functions. The Chief Minister is the real executive of the State Government but he is also the leader of the majority party in the State Legislature.

Let us now discuss the powers and functions of the Chief Minister of an Indian State.

In a constituent State of India, the Council of Ministers is the real executive and the Chief Minister is its leader. The Chief Minister is central both to the life and death of the Cabinet. Under Art. 164 (1) of our Constitution, the Chief Minister is appointed by the Governor. The Governor has little choice in this matter because he has the alternative but to appoint the leader of the majority party in the Legislative Assembly as the Chief Minister of the State. Other Ministers are appointed by the Governor on the advice of the Chief Minister. The Chief Minister has the power to summon, prorogue, and preside over the meetings of the Cabinet. He co-ordinates and supervises the activities of the different departments. He has also the right to control the working of every department of his government. The Chief Minister usually consults his colleagues on all important problems of the State. If any minister disagrees with the Chief Minister, he shall have to resign. But the whole ministry will fall if the Chief Minister resigns.

The Chief Minister is the adviser of the Governor. He is the bridge between the Council of Ministers and the Governor of the State. He advises the Governor in the appointment and removal of the ministers, the judges of the High Court and other important officers of the State Government. According to the Constitution, the Council of Ministers hold office "during the pleasure of the Governor." This phrase "pleasure of Governor" is "pleasure of the Chief Minister." If the Governor is advised by the Chief Minister to dismiss a minister, the Governor would exercise his pleasure to dismiss the minister. It is the duty of the Chief Minister to advise the Governor on all important decisions.

The Council of Ministers dealing with the administrative affairs of the State Government and proposals for legislation. Again he may advise the Governor to summon and prorogue the State Legislature. The Chief Minister has also the power to advise the Governor to dissolve the Legislative Assembly and to order a fresh election.

The Chief Minister is also the recognised leader of the State Legislature. In the Assembly, he makes policy statements on behalf of the Cabinet. He has to see that the government bills are passed by the Assembly. If the State Legislature goes against him, he has to resign with his colleagues.

Therefore the Chief Minister of a State occupies a place of pre-eminence in the constitutional and government system of the country. His primary duties surround the Cabinet. It is said, "Matters of exceptional importance ought to be brought to his attention before they are discussed in the Cabinet and any difference that may arise between any two ministers should be submitted to him for decision. He has a right to expect, for example, to be consulted about the filling of the highest posts in the permanent civil service." Some say that the Chief Minister is the *primus inter pares*, i.e. chief among equals. Others point out that he is only the first among equals. It may be said that under our Cabinet system of government the Chief Minister is not merely the *primus inter pares*, but he is something more. As the Chief Minister is called the First Minister, he is bound to answer to the Government and also to the people. The office of the Chief Minister carries dignity and prestige as a constituent part of the Indian Union. The office of the Chief Minister depends upon the personality, ability and leadership of the person who occupies that august office.

Q. 48 Explain how the Council of Ministers is formed in a state in India. Discuss the relation between the Council of Ministers and the State Legislature.

Or

Explain how the Council of Ministers is formed in a State in India. What is its relation with the State legislature?

Ans. The Constitution of India envisages a parliamentary form of government both at the Centre and at the States. It is modelled on the British system.

In an Indian State, the Governor is said to be the nominal executive. The actual administration of a State is carried out by the Council of Ministers with the Chief Minister at the head. It has a constitutional status. For Article 163 of the Constitution of India provides for a Council of Ministers headed by the Chief Minister to aid and advise the Governor in the exercise of his functions.

According to the letters of the Constitution, the appointment of the Chief Minister is to be made by the Governor. In actual practice, it is not the case. The Governor normally appoints the leader of the majority party in the Legislative Assembly as the

Chief Minister of the State. However, the Chief Minister may also belong to the Legislative Council (where it exists). As other ministers are appointed by the Governor on the advice of the Chief Minister, the ministers hold office during the pleasure of the Governor. They are required to be members of State Legislature.

The number of members of the Council of Ministers in a state has not been fixed by the constitution. It is left to be determined by the Chief Minister himself. But the State Council of Ministers has three categories of Ministers, viz., (a) the Cabinet Ministers, (b) the Ministers of State and, (c) the Deputy Ministers. However, the expression "the State Cabinet" has not been mentioned anywhere in our written Constitution. In reality, the Governor of State always acts on the advice of the Cabinet Ministers. In this connection, we are to note that in the Council of Ministers of the States of Bihar, Orissa and Madhya Pradesh, there must be a minister in charge of the welfare of the scheduled castes and backward classes.

In India, the relation between the Council of Ministers and the state Legislature is similar to that of the Union Government. To put it other words, in every State of India we have the same system of parliamentary executive as at the Centre and the Council of Ministers consisting, as it does, of the members of the Legislature is part of the Union Cabinet, a system which joins a link which fastens the legislative part of the State to the executive.

According to the provisions of the Indian Constitution, the State Council of Ministers must be the members of the State Legislature. However, the Governor may appoint a person who is not a member of the State Legislature as a member of the government in the State and he has a seat in the members of the State Legislature within a period of six months. If he does not become a member of the Legislature, he shall have to resign. A person who is a Minister is entitled to attend the sessions and also to take part in the proceedings and discussions of the Council of Houses of the State Legislature. He is also entitled to bring any bill in the House to which he belongs.

Article 163 of the Indian Constitution clearly states that the

Council of Ministers is collectively responsible to the State Legislative Assembly. It means that the Ministers are accountable collectively to the Legislative Assembly for the policies and activities of the State Government. They work as a unit inside the State Legislature. The ministers sink or swim together. In this connection, we are to note that the Governor can exercise certain matters in his discretion from which the advice of the Council of Ministers is excluded. And in those matters, the ministry has no responsibility to the State Legislature. Therefore "the principle of ministerial responsibility in the State differs from that in the Union."

In a unitary State of India, the Legislature has the power to express disapproval from the ministers of the State Government. The members of the State Legislature may ask questions to the ministers. The State Legislature may also disapprove the policies of the Council of Ministers in the following ways: (a) The Legislature may pass a vote of no-confidence or censure. It means that the Legislative Assembly does not like to support the policy of the Council of Ministers. (b) The State Legislature may defeat a measure which the Ministry has placed before it. (c) The Council of Ministers may bring a private member's bill in passed against the opposition of the Ministry. (d) The Legislature may pass a resolution withdrawing a token vote in the favour of the ministers.

So, the Council of Ministers can be made responsible to the State Legislature. In short, collective responsibility means that a responsible Legislative Assembly can force the entire Council of Ministers out of office following a vote of no-confidence passed by the members. Thus the Council of Ministers should pursue unified policy on all important questions pertaining to the government of an Indian State.

In reality, under the unitary parliamentary practice, the State Council of Ministers can effectively check the activities of the State Legislature. The ministry dominates the executive, legislative and financial spheres. As for example, most of the bills are introduced in the State Legislature on behalf of the State Cabinet. The Finance Minister's Bills have no chance to become Acts unless the Council of Ministers favours them. The legislative and financial system of the State Government is not

effective. All proposals on taxation and expenditure must come from the ministers. The State Council of Ministers also regulates the timetable of the Legislature.

The Council of Ministers guides and controls the State Legislature. It has become a tool in the hands of the ministry. In practice, the Legislature cannot act against the wishes of the ministers. However, it does not mean that the Council of Ministers in an Indian State functions as a dictator. The ministers cannot exercise the governmental business of the State arbitrarily. They always work under the constant fire of criticism of the Opposition. Hence, the Council of Ministers controls and in turn, is controlled by the State Legislature.

Q. 49 State the functions of the Legislative Councils in India and the elements composing them.

(A).

Explain the organisation and functions of the Legislative Council in the States.

Ans. In India, the organisation of the executive is same in all States. As for example, the executive of each state consists of the Governor and the Council of Ministers. But the constituent States of India have not adopted the same principles in the formation of their legislatures. According to the provisions of the Constitution, the legislature of a State consists of the Governor and one House or two Houses. Where there are two Chambers in the legislature of a State, one is known as the Legislative Assembly (Lower House) and the other is called the Legislative Council (Second Chamber). Where there is only one House, it is known as the Legislative Assembly. Bihar, Uttar Pradesh have both the Legislative Assembly and the Legislative Council. But Assam, Arunachal have only one Chamber i.e. the Legislative Assembly.

The Constitution of India provides that the Legislative Council of each State consists of not more than one third (1/3) of the total members of the Legislative Assembly of that State but not less than forty (40) members.

The members of the Legislative Council are partly elected and partly nominated. It may be said that five-sixth (5/6) of the total members are elected indirectly. And the remaining one-sixth (1/6) are nominated by the Governor of the State. The elected

members are elected on the basis of proportional representation by means of a single transferable vote. The organisation of the Legislative Council is as follows:

(a) One-third (1/3) of the total members of the Legislative Council are elected by electorates consisting of the members of the corporations, Municipalities, Zilla parishad and Anchook Parishad or Panchayat Samities.

(b) One-third (1/3) of the total members of the Legislative Council are elected by members of the Legislative Assembly from among persons who are not its members.

(c) One-twelfth (1/12) of total members of the Council are elected by electorates consisting of persons residing in the State and who are graduates of three years standing.

(d) One-twelfth (1/12) of total members are elected by the persons engaged in teaching for at least three years in secondary schools.

(e) The remaining members of the Legislative Council are nominated by the Government—namely persons who have acquired special knowledge or practical experience in art, science, literature, social service and co-operative movement.

The qualifications for the members of the Legislative Council are as follows:—A person must be a citizen of India, he must be at least 21 years of age and he must be a voter for any constituency of the Legislative Assembly.

The Legislative Council is a quasi-permanent body. The members are elected for a period of six (6) years. One-third of the total members retire every second year.

The Legislative Council elects two persons as Chairman and Deputy Chairman from among its members. The Chairman and the Deputy Chairman preside over the meetings of the Council.

The Legislative Council is a weak Chamber. It has no electoral powers. It stands below the Legislative Assembly so far as the powers and position are concerned.

A public bill may be introduced in either House of the State Legislature. A public bill passed by the Legislative Assembly is sent to the Legislative Council for its approval. If the bill is rejected by the Legislative Council, or if it is not returned to the

Legislative Assembly within a period of four months or if the two Houses have disagreed with regard to the amendments made on the bill, then the bill is considered to have been passed in both the Houses. On the other hand, if a public bill passed by the Legislative Council is not accepted by the Assembly, the bill is dead for the session.

The Legislative Council has practically no control over the money bills. No money bill can originate the Legislative Council. It cannot amend or reject a money bill. It can delay a money bill for fourteen days only.

The Council of Ministers of the State is responsible to the Legislative Assembly. The Ministry must resign if it lacks the confidence of the Legislative Assembly. No such power has been given to the Legislative Council. But the Legislative Council has the power to criticise the policies and activities of the Council of Ministers.

The Legislative Council possesses the power to discuss the Constitutional amendment bill relating to the federal provisions of the Constitution such as the election of the President, distribution of powers between the Centre and the States.

The report of the State Public Service Commission as well as the report of the Comptroller and Auditor-General relating to the accounts of the government of the State are laid before both the House of the State Legislature. Like the Legislative Assembly, the Legislative Council also has the power to consider and examine those reports.

Q. 50. Would you be justified in stating that the Legislative Council in an Indian State is redundant and should be abolished?

Or

Do you justify the existence of Upper Houses in some of the States in India?

Or

"Legislative Councils in Indian States should be abolished"—Discuss. State your reasons fully.

Or

"Second Chambers in Indian States are a Constitutional necessity." Do you agree? State your reasons fully.

of the State Legislature. In every State there are some persons who are always unwilling to take part in the elections. But their services are absolutely essential in the interests of the State. They may be nominated to the Legislative Council by the Governor.

(vi) The constitutional provision for the creation or abolition of the Legislative Council of a state is not permanent. It may be changed without amending the Constitution. Art. 169 lays down that Parliament may by law provide for the creation or abolition of Legislative Council of a State and the Legislative Assembly of that State passes a resolution to that effect. This resolution must be supported by a majority of the total membership of the Legislative Assembly and by a majority of its two-thirds members present and voting. The Legislative Councils have been abolished from the states of West Bengal, Assam, Pradesh, Punjab, Tamil Nadu etc.

It must, however, be pointed out that the Legislative Council of a Indian State is not so weak and useless as it appears to be. It exercises a considerable amount of influence over the legislative affairs of the State because of its elite character and its quasi-permanent character.

Q. 5. Describe the procedure for passing Money-Bills in a State Legislature of India.

Or,

What is a Money Bill? Describe the procedure followed in passing a Money Bill in a State Legislature in India.

Ans. According to Art. 110 of the Constitution of India, a bill is classified as a money-bill if it contains all or any of the following matters:

(a) The imposition, abolition, alteration or regulation of any tax; (b) The borrowing or raising of money in the State; (c) The custody of the Consolidated Fund and the Contingent Fund of the State; (d) The raising of any expenditure to be charged upon the Consolidated Fund of the State.

But a bill is not considered to be a money bill simply because it provides for the imposition of fine or penalties or levy or because it provides for the imposition, abolition or revision of any local body.

The decision of the Speaker of the Legislative Assembly is final on the question whether a bill is a money-bill or not. It cannot be questioned in a court of law.

When a money-bill is transmitted to the Legislative Council of which it is sent to the Governor for his assent, it must be signed by the speaker.

Certain points must be noted in connection with the introduction and passing of a money bill. These are:

(a) The ministers are only entitled to introduce a money-bill in the State Legislature. The private members of the State Legislature do not possess the power. (b) A money-bill cannot be originated in the State Legislature without the recommendation of the Governor of the State. (c) All proposals for revenue and expenditure must come from the ministers.

Let us now discuss the process of passing of a money-bill in the State Legislature of India.

According to the provisions of the Constitution, a money-bill is introduced in the Legislative Assembly. It cannot be originated in the Legislative Council. So far as the money-bills are concerned, the supremacy of the Legislative Assembly prevails over the Legislative Council, though it is passed before both the Houses of the State Legislature. In the Legislative Assembly, the process of passing a money-bill is not similar to that of passing a public bill.

The members of the Assembly may criticise the financial policy of the Government. Amendments are made on the bill. All expenditures are voted except those expenditures which are charged upon the Consolidated Fund of the State (e.g. salaries and allowances of the Governor). With a majority support behind it, the Assembly can easily pass the money-bill.

When a money-bill is passed by the Legislative Assembly, it is sent to the Legislative Council for ratification. The Constitution lays down that the Legislative Council has no power to reject or amend a money-bill. It can only make recommendations. And these recommendations may be accepted or rejected by the Legislative Assembly. The Legislative Council can delay a money-bill for a period of fourteen days only. If the Legislative Council does not return the bill to the Legislative Assembly within this period, the bill is deemed to have been passed by both the Houses of the State Legislature.

If a money-bill has been finally passed by the Legislative Assembly and the Legislative Council, it is presented to the Governor of the State for his assent. It is a convention that the

Legislative Council for its approval. The Council also passes the bill through the same procedure. If, however, (a) the bill is rejected by the Council, or (b) the two Houses have disagreed as to the amendments made on the bill, or (c) the bill is not sent back to the Legislative Assembly within a period of three months, then the Assembly may pass the bill again the transmission to the Legislative Council. When the bill is sent to the Council for the second time, it is considered to have been passed by the two Houses even if the bill is not again passed by the Council within a period of one month. On the other hand, if a public bill passed by the Legislative Council is not accepted by the Legislative Assembly, the bill is dead for the session.

Governor's Assent. When a bill is passed by the State Legislature, it is sent to the Governor for his assent. The Governor may assent to it or withhold his assent or reserve the bill for the consideration of the President. The Governor may also return the bill to the Legislature for reconsideration. When the bill is sent for the second time, the Governor, if assent is not withheld, assents.

Q 54. Write an analytical note on the position and functions of the Speaker of the Legislative Assembly in an Indian State.

Ans. In an Indian State, the office of the Speaker of the Legislative Assembly is primarily known as the Speaker. The office of the Speaker is a very important and dignified position. The Speaker is the only member of the Assembly who speaks for the Assembly and not to it.

After the general election is over, the newly constituted Legislative Assembly elects the Speaker from among its members. In practice, the Speaker is an member of the majority party in the Legislative Assembly. However, the Chief Minister and the other members of the majority party and the members of the opposition party may be removed from his office earlier by a resolution of the Legislative Assembly. Such a resolution requires fourteen days' notice and it must be passed by a majority of all the members of the Legislative Assembly. One of the distinctive features of the office of the Speaker is that he does not vacate his office even when the Legislative Assembly is dissolved and a new Assembly

remain in office until a new Speaker is elected by the Legislative Assembly.

The primary duty of the Speaker is to preside over the meetings of the Legislative Assembly. He is to see that the time of the Legislative Assembly is properly used. The Speaker controls the debates of the Legislative Assembly. He maintains decorum, order and discipline when the Legislative Assembly is in session. He declares and interprets the law regulating the procedure in the Legislative Assembly. He has the power to decide points of order and put questions. The Speaker may warn and suspend those members who violate the rules of the Legislative Assembly. He has also the power to adjourn the session of the Legislative Assembly for an indefinite period. In the Legislative Assembly, voting takes place under the direction of the Speaker. He announces the final result of vote. The Speaker may give rulings on any matter he likes. His rulings are final and they cannot be questioned in a court of law. The members of the Legislative Assembly have no right to discuss an adjournment motion without the approval of the Speaker. He serves as a bridge between the Council and the Legislative Assembly. The Speaker alone can determine whether a particular bill is a money bill or not. The Speaker also acts as the guardian of the rights and privileges of the members of the Legislative Assembly—from the Chief Minister down to the Back with no vote equal. The Speaker has the power to appoint the editors and printers of the different journals of the Legislative Assembly. It is the duty of the Speaker to see that the votes recorded by the members are correctly published in the Assembly.

To sum up, the office of the Speaker of the Legislative Assembly in an Indian State should be independent and impartial. He should give up his party colours. He should not attend any party meeting or any other party affair. In short, the Speaker of the State Legislative Assembly should be a true symbol of the dignity and independence of the House as well as the guardian of the rights and privileges of its members.

Q 55. Discuss the privileges and immunities of the State Legislatures and their members in India.

Ans. Privileges are peculiar rights and immunities enjoyed by the State Legislatures and their members. These rights are meant

not put members of the State Legislatures in a separate and superior political caste but to enable them to discharge their duties smoothly without any obstacle of any type as representatives of the people. Unless the State Legislatures and their members have privileges and immunities they will not be able to function effectively in accordance with the provisions of the Constitution. It is said that a State Legislature may commit for contempt a person who will not go into the facts concerning the alleged contempt provided that the cause of the contempt is not stated.

The Constitution of India provides for certain privileges and immunities to the State Legislatures and their members for ensuring freedom, security and dignity. These privileges are of two types, one for the State Legislatures, and other for each member in his capacity as a part of the State Legislature. The privileges and immunities are essential to the successful working of parliamentary democracy in India.

The Constitution of India describes the privileges and immunities of the State Legislatures and their members which are as follows :-

(1) *Freedom of Speech* : All members of the State Legislatures enjoy full freedom of speech and it is quite necessary for them to discharge their duties. Like the Central Government, the State Government is also based on discussion and conflict of ideas. Members of the State Legislatures should enjoy the widest scope to express themselves freely without fear of being dragged into a court of law for defamation.

(2) *Freedom by Arrest* : This privilege applies in cases of a civil nature and operates during session of the State Legislatures and 40 days before or after. A member cannot, however, be arrested during the State Legislature even if he is wanted in a criminal case without the permission of the Speaker.

(3) *Power to Summon Persons* : The State Legislatures and their Committees have the right to summon any person to produce evidence and information, to produce documents or to answer a charge of breach of privilege or contempt of the State Legislature. Disobedience is punishable by the State Legislature.

(4) *Right to Regulate Affairs* : No executive or judicial authority

in the country has any right to interfere in the internal affairs of the State Legislatures.

(5) *Power to punish for breach of privilege* : The State Legislature can try and punish any person for contempt or breach of privileges, whether committed inside or outside the State Legislature.

(6) *Right to exclude strangers* : The privacy of the State Legislature by outsiders is strictly maintained. Visitors must obtain the Speaker's prior permission. If the State Legislature so desires outsiders can at any time, be expelled from the Chamber's galleries.

(7) *Publishing Proceedings* : The speeches delivered in the State Legislature shall be published only when they are authorised by the Legislature. A member of the State Legislature shall not publish his speech in a newspaper without being authorised.

Q. 36. Discuss the position of Jammu in the Indian Constitution.

Ans. According to the Constitution of India, the State of Jammu and Kashmir is an integral part of the Union of India. But it holds a peculiar position in the Constitution of India in comparison with other constituent States. The unique position of Jammu and Kashmir has been due to the conditions that prevailed at the time of its accession to the Union of India.

During the British rule Jammu and Kashmir was an Indian State. When the State was attacked by "Azad Kashmir Forces," in October, 1947, it acceded to the Indian Union by signing an Instrument of Accession. And the Union of India was empowered to acquire jurisdiction over external affairs, defence and communications. The State of Jammu and Kashmir was a Part B State in the original Constitution of India. But the States Reorganisation Act of 1956 and the Constitution [Seventh Amendment] Act, 1956 have abolished the classification of States. As a result Jammu and Kashmir has acquired the status of a full-fledged constituent State included in the First Schedule of the Constitution of India.

Articles 1 and 17 of Indian Constitution are applicable to the State of Jammu and Kashmir. The President of India may also determine the application of other Articles of the Constitution to the State of Jammu and Kashmir. Further, the President of India has been authorised to abrogate Art. 170. He can also make

certain modification in accordance with the recommendations of the Constitutional Assembly of Jammu and Kashmir.

Therefore the administration of Kashmir differs from that of other States in India. A special arrangement has been made in determining the proper relationship between the Union of India and the State of Jammu and Kashmir. And this has been known as the Constitution (Application to Jammu and Kashmir) Order, 1954. The Constitution Order has been amended from time to time.

That the State of Jammu and Kashmir has acquired a special status in the Constitution of India is evident from the following:

(1) The jurisdiction of the Union Parliament over Kashmir extends to the subject included in the Central List. Parliament can also legislate on certain Concurrent subjects which are applicable to Jammu and Kashmir. But the State of Kashmir enjoys exclusive jurisdiction over residuary powers.

(2) Union Parliament cannot make laws in the State subjects of Jammu and Kashmir in the normal interest.

(3) The Preventive Detention Act, 1950 is not applicable to Kashmir. The State of Jammu and Kashmir is entitled to enact the Preventive Detention Act in its own requirements.

(4) Previously, the head of the State of Kashmir was designated as a *Sardar-i-Riyasat*. He was elected by the State Legislature. But this has been changed. At present, the head of the State is known as the Governor. And he is appointed by the President of India. Again, the leader of the Council of Ministers in Kashmir was called the Prime Minister. Today he is popularly known as the Chief Minister. The Ministry is collectively responsible to the Legislative Assembly.

(5) The State of Jammu and Kashmir has a separate Constitution of its own. But other constituent States have no separate Constitutions. Therefore, Art. 35 of the Indian Constitution determines the relationship between the Union of India and Kashmir. But this Article stands in the way of the close correspondence between the Government of India and the State of Kashmir. Political thinkers in India have recommended for abrogation of Art. 35. Thus we are to note that Arts. 35 and 37 extend to the case of Kashmir. According to these Articles, the President may proclaim an emergency in the ground of failure

of constitutional machinery in the State of Kashmir. But the President cannot declare an emergency if the State of Kashmir fails to comply with the directions given by the Central Govt. Art. 360. The national emergency does not extend over Kashmir.

(6) The President of India appoints the Judges of the High Court of Kashmir in consultation with the Chief Justice of India and the Governor of the State.

(7) The Union Parliament cannot alter the name and boundaries of the State of Kashmir without the consent of the latter.

(8) Fundamental Rights have been extended to the State of Kashmir subject to certain modifications. As for example, it is not possible to examine the reasonableness of restrictions imposed by the State Legislature of Kashmir on the freedoms of speech, expression, assembly, movement, association as enumerated in Art. 19 of the Indian Constitution. Further, the Directive Principles of State Policy are not applicable to Kashmir.

(9) The representatives of Kashmir in the Lok Sabha are directly elected by the State.

(10) Parliament cannot amend the Constitution of Kashmir. The State Legislature alone has been empowered to change the Constitution by a two-third majority of votes in each House. But it cannot amend the provisions of the Constitution relating to the relationship of Kashmir with the Union of India.

(11) The Legislature of Kashmir like other States in India, consists of two Chambers. The Legislative Assembly has a total membership of 100. And the Legislative Council is composed of 50 members.

(12) Urdu is the official language of Kashmir. But the English shall also be used, in addition to Urdu, for official purposes of the State.

(13) The Supreme Court of India acts as the final Court of Appeal for the State of Kashmir. The Supreme Court also exercises its original jurisdiction relating to constitutional disputes between the Union of India and State of Kashmir.

(14) The members of the State Public Service Commission are appointed by the Government. The provisions of the Indian Constitution relating to All India Services have been extended to the State of Jammu and Kashmir.

(15) The Election Commission in India also conducts the

election of Kashmir. The Comptroller and Auditor-General of India has the power to Audit the accounts of the Government of Kashmir.

Thus, Kashmir has acquired a special status in our Constitution. It enjoys more powers than those granted to other States in India.

Q 57. Write a note on the administration of the Union Territories in India.

Ans. The expression "Union Territories" refers to those regions of India which are administered and controlled by the Union Government—the Central Executive [Ministry and Bureaucracy] and the Parliament.

Before 1991 there were seven (7) Union Territories in India. However the Constitution (Sixty-ninth Amendment Act of 1990) has given the former Union Territory of Delhi a special status by which it has been transformed into the National Capital Territory. At present, Delhi has a unicameral legislature (Legislative Assembly or Vidhan Sabha) comprising 70 seats and also a seven (7)-member Council of Ministers with the Chief Minister at its head. Strictly speaking, Delhi is now not a Union Territory in the accepted constitutional term.

Hence, we have at present six Union Territories. They are [1] Pondicherry, [2] Chandigarh, [3] Dadra and Nagar Haveli, [4] Daman and Diu, [5] Andaman and Nicobar Islands, and [6] Lakshadweep.

The Constitution of India states that every Union Territory is administered by the President of the Republic through an Administrator to be appointed by him with such designation as he may specify. In Union Territories, the administrator is popularly known as the Chief Commissioner [Lakshadweep] or the Lieutenant Governor [Pondicherry].

Of the present Union Territories, Pondicherry enjoys more constitutional autonomy than that of others. Pondicherry has a Legislative Assembly of 30 members to make laws for the good administration of the territory. Normally, the Council of Ministers headed by a Chief Minister and three or four other Ministers carries on the administration directly.

The President of India may appoint the Governor of a State as the administrator of an adjoining Union Territory and where a Governor is so appointed, he exercises the functions

independently of his Council of Ministers. Besides, the President has the power to repeal or amend an Act of Parliament for the peace, progress and good Government of the Union Territories of two Islands—Dadra and Nagar Haveli, Chandigarh, or Daman and Diu.

In this connection, we are to note that the Lieutenant Governor of Pondicherry can, after obtaining instructions from the President, promulgate Ordinances when the Legislative Assembly is not in session to take immediate action on matters of administration. It has the same force as the law of the Legislature.

It is to be noted that the Constitution (70th) Amendment Act of 1992 has empowered the Legislatures of Delhi and Pondicherry Assemblies to take part in the elections of the President of the Indian Republic.

Lastly the Union Parliament may, by law, constitute a High Court for a Union Territory or authorise a State High Court to extend its jurisdiction to the adjoining Union Territory (Of the Calcutta High Court to Andaman and Nicobar Islands, or the Kerala High Court to Lakshadweep).

8

INDIAN JUDICIARY

Q. 58 Discuss the constitutional position of the Supreme Court of India.

Or,

Evaluate the role of the Supreme Court as the guardian of the Indian Constitution.

Or,

Explain the composition and functions of the Supreme Court of India.

Ans. The existence of an independent and impartial Supreme court is one of the distinctive features of federation. In a federal form of Government, the role of the Supreme Court is of great importance. The Supreme Court is regarded as the interpreter and the guardian of the Constitution. It protects the rights and freedoms of the people under the Constitution. The Supreme Court has also the power to settle all constitutional disputes that arise between the federation and the States or between the States themselves.

India is a federal State. The Constitution of India has accepted the American model and not the British, so far as the role of the Supreme Court is concerned. But in India, there is not a dual system of courts as in the U.S.A. There is a single integrated judicial system in India. At the apex of the entire judicial system stand the Supreme Court of India. It is the highest and final judicial tribunal in India. All other courts are subordinate to the Supreme Court.

Composition. At present, the Supreme Court of India consists of 26 Judges—one Chief Justice and 25 other Judges. Every Judge of the Supreme Court is appointed by the President in consultation with other senior Judges of the Supreme Court and the High Court of States.

The necessary qualifications required for the appointment of a Judge of the Supreme Court are as follows:

(a) A person must be a citizen of India and (b) a person must

be a Judge of a High Court for at least five years, or be a person must be an advocate of a High Court for at least ten years, or (c) a person must be a distinguished jurist.

The Judges of the Supreme Court of India continue to remain in office until the age of 65 years. But a Judge of the Supreme Court may be removed earlier by an order of the President after an address presented to him by the Parliament on grounds of proved misbehaviour or incapacity. Such an address must be supported by a majority of the total membership and by at least two-thirds of members present and voting in each House of Parliament.

Jurisdiction. The Supreme Court of India is the highest judicial organ. Therefore, it possesses very wide powers. The jurisdiction of the Supreme Court may be classified into different heads—Original, Appellate, Writ and Advisory.

(a) **Original Jurisdiction.** The Supreme Court of India has exclusive original jurisdiction in any dispute—(i) between the Government of India and one or more States, (ii) between the Government of India and any State or States, (iii) between one or more States, or (iv) between two or more States.

(b) **Appellate Jurisdiction.** The Supreme Court is the highest Appellate Court in India and as such it has an appellate jurisdiction over State High Courts. It hears appeals in constitutional, civil and criminal cases.

(c) **Constitutional.** In constitutional matters, the Supreme Court has authority over a State High Court when the High Court has given the last word on a substantial question of law as to the interpretation of the Constitution.

(d) **Civil.** The Supreme Court also hears appeals in civil cases if a High Court refuses to give for a case has a great constitutional significance or if the case is a writ or appeal to the Supreme Court.

(e) **Criminal.** The Supreme Court has also the power to hear appeal in criminal cases from a State High Court if the High Court has on appeal reversed an order of acquittal of an accused person and sentenced him to death or if certifies that the case is a fit one for appeal to the Supreme Court.

(f) **Writ Jurisdiction.** Under the Constitution of India, a

before entering upon his office has to administer an oath that he will perform his duties without fear or favour, affection or ill-will and uphold the Constitution of India and the laws.

Secondly, the method of appointment of judges also ensures the independence of judiciary in India. The Constitution has made it obligatory on the President to consult the highest judicial authorities in the matter of appointment of the Judges of the Supreme Court and the High Courts. The President must not be influenced by political consideration. He should consider the merits and capability of the persons concerned.

Thirdly, the Constitution also guarantees the security of tenure of Judges. A Judge of the Supreme Court or of a High Court cannot be arbitrarily removed by the President. The President can remove a Judge on the ground of proved misbehaviour or incapacity on a report by both Houses of Parliament supported by a special inquiry. The Constitution provides that the retirement age of a Supreme Court Judge is 65 years and of a High Court Judge 62 years. Long tenure of service enables the Indian Judges to function independently and impartially.

Fourthly, the salaries and allowances of the Judges of the Supreme Court and the High Courts are charged upon the Consolidated Fund of India. They are not subject to the annual vote of Parliament and the State Legislatures. Further, the salaries and allowances of the Judges in India cannot be reduced after their appointment except in times of financial emergency.

Fifthly, neither the legislature nor the executive is entitled to discuss the activities of the Judges except in case of removal of them.

Lastly, another constitutional provision is that a Judge of the Supreme Court is not permitted to start practice before any Court of law after retirement. However, a High Court Judge can practice except in the Court in which he had acted as a Judge.

Q. 60 Discuss the composition and functions of the High Court in an Indian State.

Or,

Examine the role of the High Courts in the judicial system of India.

Or,

Describe the judicial system in West Bengal.

Or,

Describe the organisation of the Indian Judicial System with special reference to the position and functions of the High Courts.

Ans. The American Federation has been characterised by double system of Courts. In the perfect federation of the U. S. A. the federal judiciary and the State judiciary can parade. One is separate from and independent of the other. India is a federation unlike the U. S. A., we have not two sets of judiciary, one to administer the federal law and the other to administer the State Law. There is no complete division of judicial authority between the Union and the State. Judiciary in India, there is a single integrated judicial system, but organised on pyramidal form.

At the apex of the judicial pyramid stands the Supreme Court. It is a single court having jurisdiction over the Courts and the High Courts and a few local and the Municipal Courts. The High Courts are the appellate courts. In each State there is one or more High Courts. The jurisdiction of the Supreme Court is appellate, original, advisory and review.

According to the Constitution of India there is a High Court in each State. It may be higher or lower than the High Court of Nagaland.

The High Court of Nagaland consists of a Chief Justice and such other Judges as the President may say. The time to time the President may appoint. The Judges of the High Court are appointed by the President in consultation with the Chief Justice of the Supreme Court and are sworn in on the State Seal.

Every Judge of a High Court shall have to possess the qualifications required for appointment as a Judge of a High Court. He must be a citizen of India and he must be a judicial officer in India for at least ten years, or he must be an advocate of a State High Court for at least ten years.

The Judges of the High Court continue in office till the age of 62. A Judge of the High Court may be removed from his office by the President on a report of two Houses of Indian Parliament. Let us now discuss the jurisdiction of the High Courts.

The High Court enjoys original jurisdiction in civil matters and appellate jurisdiction in civil and criminal matters. Its original jurisdiction extends to all types of civil cases. It can also hear appeals against the decisions of the subordinate courts such as the District Judge's Court, Sessions Judge's Court and criminal matters.

The Constitution of India has granted fundamental rights to the citizens. The High Court has the power to issue writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warrant* and *certiorari* for the enforcement of the rights of citizens. The High Court may also issue these writs for any other purpose.

The High Court has also the power to supervise the judicial and administrative functions of all courts excepting the military tribunals throughout the territory in which it exercises its jurisdiction. For this purpose the High Court may call for records from such Courts. It may also make general rules for regulating the practice and proceedings of such courts.

The Constitution also provides for the transfer of cases from one court to the High Court. If the High Court is satisfied that a case pending in a subordinate court involves substantial question of law as to the interpretation of the Constitution, it may transfer the case itself.

The High Court has the power to control the magistrates in the district. Any the Government of the State appoints the District Judge, Sessions Judge, Metropolitan Magistrate etc. in consultation with the High Court of the State.

Secondly, appointment of persons other than judicial officers etc. to the judicial service of the State i.e. Magistrates are made by the Government in consultation with the State Public Service Commission and the High Court.

Thirdly, the Constitution has also vested in the High Court the power to control the district courts including the posting and promotion of and the grant of leave to persons performing the judicial service of the State.

The High Court of the State occupies a pivotal position in the Constitution of India. It is the highest court of the State. The Constitution has laid a special stress on the integrity and impartiality of the Judges of High Court.

Under the federation of India, the State High Courts are

empowered to interpret the provisions of the Constitution. It can nullify the unconstitutional laws passed by the State Legislature. It also protects the rights and freedoms of citizens.

Therefore, the High Court of the State acts as the interpreter and guardian of the Constitution as well as the upholder of the rights of citizens.

The Constitution ensures the continuance of service of the Judges of the High Court. They continue to remain in office till the age of 62 years. They cannot arbitrarily be removed by the executive. They may be removed by the President on a report of both Houses of Parliament on grounds of proved misbehaviour or incapacity.

Neither the Parliament nor the State Legislature is entitled to discuss the activities of Judges of the High Court except in case of removal of them.

The salaries and allowances of the Judges of the High Court are charged upon the Consolidated Fund of the State. They are not subject to the alteration of the State Legislature. The salaries and allowances cannot also be reduced except in cases of financial emergency.

According to the Constitution of India, there are subordinate courts below the High Courts in each State.

These courts are divided into two main groups of the High Court.

The composition of subordinate judiciary may vary from State to State. In West Bengal, the subordinate courts may be divided into two groups.

Civil	Criminal
1. District Judge's Court	a. Sessions Judge's Court
2. Subordinate Judge's Court	b. District Magistrate's Court
3. Munsiff's Court	c. Subordinate Magistrate's Courts (1st class, 2nd class, and 3rd class,
4. Nyaya Panchayat	d. Nyaya Panchayat

The lower courts deal with minor cases while the important cases coming to the higher courts. Appeals go to the higher courts.

from the lower courts. An appeal may also lie to the High Court against the decision of the District Judge's Court or Sessions Judge's Court.

In a Presidency town like Calcutta, there are City Civil Courts and the Metropolitan Magistrate's Courts. They deal with civil and criminal matters. An appeal may lie to the High Court from these Courts.

Q. 60 A. Give a brief account of the judicial system in India.
Ans. India is a federal state. But there is not a dual system of courts as in the U.S.A. In India, there is a single integrated judicial system. It is organised on pyramidal form.

At the apex of the entire judicial system stands the Supreme Court of India. Immediately below the Supreme Court are the various High Courts and below them are the subordinate courts in each state. All the courts in the Union of India are under the control of the Supreme Court. And the decisions of the Supreme Court are binding on all other courts within the territory of India.

Supreme Court :-

The Supreme Court is the highest tribunal in India. It consists of one Chief Justice and twenty-two other Judges. They are appointed by the President of India. A Judge continues to remain in office till the age of 65 years. He may be removed by the President of the Republic on a report of Parliament on grounds of proved misbehaviour or incapacity.

The Supreme Court has original, Appellate, writ and Advisory Jurisdictions.

Original Jurisdiction - The Supreme Court has exclusive original jurisdiction in any dispute between the Government of India and one or more states or between the Union Government and any State or States on the one side and one or more States on the other, or two or more states, if the disputes involves a legal question.

Appellate Jurisdiction

In *Constitutional matters*, an appeal lies to the Supreme Court if the High Court certifies that the case involves a substantial question of law as to the interpretation of the Constitution. In *other cases*, an appeal lies to the Supreme Court if the High Court certifies that the case involves a substantial question of law of general public importance. In *criminal matters*, an appeal lies to the Supreme Court if the High Court reverses the acquittal order of the lower court and sentences him to death.

Writ Jurisdiction

The Supreme Court of India is the protector of the fundamental rights of citizens. It may issue writs in the nature of habeas corpus, mandamus, prohibition, certiorari, and quo warranto for the enforcement of the rights and liberties of the people.

Advisory Jurisdiction

Under the Constitution of India, the President of the Republic can refer to the Supreme Court any question of law or fact of public importance in its opinion. And the Supreme Court may report to the President its opinion thereon.

And under the Supreme Court may grant *special leave to appeal* from the judgement of any court of India.

The Supreme Court is the interpreter and guardian of the Constitution of India. It can annul the unconstitutional laws and orders of the Union and the State Governments.

High Courts

For each state of India envisages a High Court for each state. Parliament may, however, by law establish a common High Court for two or more States.

Each High Court consists of a Chief Justice and one or more Judges as the President of India may determine from time to time. The Judges are appointed by the President of India in consultation with the Chief Justice of India and the Government of the concerned state. The Judges are to be of the age of 62. A Judge may be removed by the President of India on a report of Parliament.

Jurisdiction :-

The High Court has *original jurisdiction* with respect to civil cases, suits, matters of succession, divorce etc. In its *appellate jurisdiction*, it hears appeals from the lower courts in civil, criminal, revenue, tax, company, patent-right etc. The High Court has *power of review* and its proceedings and orders are subject to appeal in cases. A High Court can issue writs in the nature of habeas corpus, mandamus, prohibition, certiorari, and quo warranto. It supervises the working of all subordinate courts. It frames rules and regulations for the subordinate courts. The High Court is empowered to interpret the Constitution of India and to review the laws of the State Legislature and the executive orders if they go against the Constitution. Again, if a High Court is

satisfied that a case pending in a lower court involves a substantial question of law as to the interpretation of the constitution, it may dispose of the case itself.

Subordinate courts

There are subordinate courts below the High court in each state. The courts are under the complete control of the High court. The lower court, e.g. Nyaya Panchayat or Munsiff's court, deals with minor cases while the Higher courts (e.g. subordinate Judge's court or District Judge's court) deal with important cases. Appeals lie to the higher courts from the lower courts. An appeal may also lie to the High Court against the decisions of the District Judge's court or the Session Judge's court. In a Presidency town, there are city civil courts and Metropolitan Magistrates courts. In this connection, we are to note that most of the Judges of the subordinate courts are appointed by the Governor in consultation with the High Court of the concerned State.

9

AMENDMENT PROCEDURE OF THE CONSTITUTION

Q. 61. What is the method of amendment of the Constitution of India? Is the Indian Constitution rigid or flexible? State your reasons fully.

(i)

Describe the various methods by which the provisions of the Constitution of India may be amended.

(ii)

Discuss the procedure for amendment of the Constitution of India. Do you think that the Indian Constitution is flexible? Give reasons for your answer.

Ans. In a federation, the constitution is the fundamental law of the country. The Constitution divides power between the Central Government and the State Government as a device and establishes the relations between the Federal and the States. Therefore, the Constitution must be rigid. The rigidity of the constitution depends on two things. *First*, we will see if signature is required to be amended or not. In the new-making process, a constitutional amendment should be adopted by all the provisions of the constitution. Secondly, it is a rigid document if the Centre and the States are co-ordinate. They are not subordinate to each other. Therefore, neither the Central Government nor the State Government should be allowed to amend the Constitution without the consent of the other. It is not words from the Centre and the States should participate to amend the Constitution.

India is a federal State. The constitution is written. According to the rigidity of the constitution, we have seen that India is inflexible. The constitution is rigid. But this is not the case. We have not a rigid Constitution like America type. Again like the British Constitution, the Indian constitution is also not flexible. We have taken the rigidity and flexibility of the amendment of our constitution.

Article 31 & deals with the different modes of amendment of Indian Constitution.

Firstly according to the *First Paragraph of Art. 368*, a bill to amend the provisions of the Constitution may be introduced in either House—the House of the People or the Council of States of Parliament. It must be passed by a majority of the total membership and by a majority of not less than two-thirds of the members present and voting in each House of Parliament. An amendment to the Constitution becomes valid on receiving the assent of the President of India. The fundamental rights of citizens and the directive principles of State policy can be changed according to this method.

Secondly the *Second Paragraph of Art. 368* prescribes a special method for the amendment of the federal provisions of the Constitution. An amendment bill for that purpose may be initiated in either House of Parliament. It must be passed by a majority of total membership as well as by a majority of two-thirds of the members of each House present and voting. Thereafter it shall be ratified by one half of the State Legislatures. It becomes an Act as soon as it receives the assent of the President. According to this method, the following provisions of the Constitution can be changed:

(a) Election of the President.

(b) Representation of States in Parliament.

(c) Distribution of powers between the Centre and the States.

(d) Process of amendment of the Constitution as envisaged in Art. 368.

Besides, there are certain constitutional provisions which can be modified by a simple majority of votes in each House of Parliament in consultation with States or their request. These provisions are (a) creation of new States, (b) alteration of boundaries of States, (c) creation or abolition of Second Chamber in a State.

Moreover, there are certain provisions in our Constitution which may be altered by a simple majority of the members present and voting in each House of Parliament. They are (a) Fundamental Laws of election, (b) Delimitation of constituencies.

But the Constitution declares that all these should not be deemed to be the amendments of the Constitution.

During the last fifty years the Constitution of India has been amended as many as 80 times. The important amendments relate to fundamental rights of citizens, the reorganisation of States,

the creation of Union Territories, the retiring age of the judges of High Courts, the creation of the State of Nagaland and the State of Meghalaya, recognition of Sindh, Manipur, Nepal as our national languages, abolition of privy purse, recognition of Sikkim as an associate State of India, lowering of Voting age from 21 to 18 years, reconstruction and development of rural and municipal administration etc.

The process of amendment of the Indian Constitution has been criticised on the following grounds:

(1) The Constitution of India entrusts the sole power to introduce an amendment bill upon the Parliament. In India, there is no provision for a convention through which the Constitution may be amended.

(2) I. I. Chatterjee, the State Legislatures have no power to introduce a bill for the purpose of amendment of the Constitution. Again all amendments to the Constitution do not require the consent of the States.

(3) The prime sanction of the President of India does not require to initiate in Parliament a proposal for amending the Constitution.

(4) In the U. S. A. Congress cannot change any provision of the Constitution without the consent of the three-fourths of the State Legislatures. But in India, the ratification by the legislatures of one half of States is sufficient for the purpose of amendment of the Constitution.

(5) The Constitution of India does not prescribe any time limit without which the State Legislatures are unable to reject an amendment.

(6) Unlike the U. S. A. an amendment to the Constitution of India requires the assent of the President. The President has the power to withhold his assent.

Parliament is empowered to amend the provisions of the Constitution relating to the fundamental rights of citizens without the approval of the States. It is not flexible in the U. S. A.

From the above discussion, it may be said that the Fathers of the Constitution of India did not wholly adopt the rigidity of the U. S. A. In the U. S. A. the Constitution is rigid. Our Constitution is partly rigid and partly flexible. India has followed the rigid procedure of the U. S. A. in the matter of amendment of the

the annual vote of Parliament. They are charged upon the Consolidated Fund of India.

Function. The Union Public Service Commission (a) holds competitive examinations written as well as oral for appointments to the services of the Union Government (b) assists two or more States in framing and operating schemes of joint recruitment for any service (c) advises the Union Government on all methods of recruitment to services and for civil posts (d) advises the Union Government in making promotions and transfer from one service to another (e) advises the Union Government on all disciplinary matters affecting a person serving under the Government of India (f) advises the Union Government on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India and (g) advises the President of India on any other matter referred to it.

Article 323 of the Constitution of India provides that the Union Public Service Commission presents an annual report to the President as to the work done by it. This report is also placed before both the Houses of the Union Parliament by the President of the Republic.

But the Constitution of India empowers the President to make rules for excluding any class of appointment (i.e. Ambassadors, Consuls, etc.) from the jurisdiction of the Union Public Service Commission.

The Union Public Service Commission is an advisory body. It has not been mentioned anywhere in the Constitution that the Union Government is bound to follow the advice of the Commission. In a parliamentary democratic country like India, the ministry is responsible for the good government of the country. The ministry is responsible to the Parliament for its activities. Hence the ministers are not willing to make themselves responsible to any other body like the Union Public Service Commission. If the recommendations of the Union Public Service Commission are obligatory, there may be conflicts of jurisdiction between the Union Government and the Commission. The Commission may exercise a considerable amount of influence if its recommendations are advisory. The Supreme Court has also decided that the Commission is an advisory body of the Union Government. The Government may take disciplinary measures

against an employee without the recommendations of the Commission.

From the Constitutional point of view, it may be pointed out that the Union Public Service Commission of India is an agent like the corresponding Commissions of England and America. In U.K. and U.S.A. the Public Service Commissions are created by the laws of the legislature. Hence the legislature has the power to modify the composition and functions of the Commission. In the U.K. and the U.S.A. the Commissions are subordinate to the legislature. But in India the Union Public Service Commission is not under the jurisdiction of the executive or the legislature. It is an independent agency created by the Constitution itself. The success or failure of any scheme of India depends mainly upon the existence of this independent and impartial Union Public Service Commission. The main object of the Commission is to secure the highest quality of men for Government and to appoint the most suitable persons for services of the Union. To secure this it is also the duty of the Commission to see that the persons who are performing the business of the Government are independently and impartially irrespective of their party affiliations.

Q. 63. Discuss the composition and functions of the State Public Service Commission in India.

Ans. Under the present constitution of India the ministers are actually running administration of the country. But they are not capable of performing all the services of the Government. Hence the ministers are to depend upon the permanent civil servants who have administrative experience.

According to the Constitution of India, the establishment of a Public Service Commission for each State is obligatory. Article 317 provides for the setting up of one Public Service Commission for each constituent State in India. However, Parliament may, by law provide for the setting up of a joint public Service Commission if two or more States pass a resolution to that effect.

Composition. According to the provisions of the Constitution, a State Public Service Commission consists of a Chairman and such other members as may be decided by the Governor of the State. The Chairman and other members of the State Public Service Commission are appointed by the Governor by a warrant

under his hand and seal. It is clearly laid down in the Constitution of India that not one of the members of the State Public Service Commission may be a person who has held for at least ten years under the Government of a State. A member of the State Public Service Commission holds office for six years or until he attains the ages of sixty-two years whichever is earlier. A member of the State Public Service Commission can be removed by the President or a report of the Supreme Court or by a ground of proved misbehaviour or insolvency. The Constitution provides for the independence and impartiality of State Public Service Commission. The salaries and allowances of the members of the Commission are not subject to the annual vote of the State Legislature. They are charged upon the Consolidated Fund of the State.

Functions. The State Public Service Commission (a) holds competitive examinations written as well as oral for appointments to the services of the Government of a State. (b) assists two or more States in framing and operating schemes of recruitment for any service. (c) advises the State Government on all the matters of recruitment to services and on other posts. (d) advises the State Government in making promotions and transfers for recruitment to higher posts. (e) advises the State Government on all the queries matters affecting a person serving under the Government of a State. (f) advises the State Government on any claim for the award of a pension in respect of services rendered by a person while serving under the Government of a State. (g) advises the Government of a State of any other matter referred to it.

To conclude the State Public Service Commission is an advisory body. It has not been mentioned anywhere in the Constitution of India that the State Government is bound to follow the advice of the Commission. In our country, the responsible Government prevails at the State. Therefore, the Council of Ministers is accountable to the State Legislature—the welfare of the people. The ministers are not willing to make themselves responsible to any other body like the State Public Service Commission. However, in India, the State Public Service Commission is not under the jurisdiction of the executive or the legislature. It is an independent agency created by the Constitution itself. The Commission ensures the administrative efficiency of the Government.

11

ELECTION COMMISSION AND THE ELECTORAL SYSTEM IN INDIA

Q 64 Discuss the Composition and Functions of the Election Commission in India.

And the Government of India is a parliamentary democracy. The Government of India exercises its authority under the provisions of the Constitution of India. Article 324 of the Constitution of India provides for the establishment of the Election Commission of India. The Election Commission is an independent body which is responsible for the conduct of elections in India. The Election Commission is composed of the Chief Election Commissioner and two other Election Commissioners. The Chief Election Commissioner is appointed by the President of India and holds office for a term of five years or until he attains the age of 65 years whichever is earlier. The two other Election Commissioners are appointed by the President of India and hold office for a term of five years or until they attain the age of 65 years whichever is earlier. The Election Commission is an independent body which is responsible for the conduct of elections in India. The Election Commission is composed of the Chief Election Commissioner and two other Election Commissioners. The Chief Election Commissioner is appointed by the President of India and holds office for a term of five years or until he attains the age of 65 years whichever is earlier. The two other Election Commissioners are appointed by the President of India and hold office for a term of five years or until they attain the age of 65 years whichever is earlier.

Composition. A Commission consisting of the Chief Election Commissioner and two other Election Commissioners. The Chief Election Commissioner is appointed by the President of India and holds office for a term of five years or until he attains the age of 65 years whichever is earlier. The two other Election Commissioners are appointed by the President of India and hold office for a term of five years or until they attain the age of 65 years whichever is earlier.

The Chief Election Commissioner is appointed by the President of India and holds office for a term of five years or until he attains the age of 65 years whichever is earlier. The two other Election Commissioners are appointed by the President of India and hold office for a term of five years or until they attain the age of 65 years whichever is earlier.

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if India guarantees the independence of the members of the Election Commission including its Chairman. Their salaries and allowances fall in the item of non-votable expenditure. That is, they are charged upon the Consolidated Fund of India.

Functions—The major functions of the Election Commission as embodied in our Republican Constitution and the Representation of the People's Acts (amended from time to time) are stated briefly:

(1) to exercise superintendence, direction and control of electoral rolls for the elections to the Parliament and State Legislatures as well as the Presidential and Vice-Presidential elections.

(2) to notify the dates/dates for the submission and withdrawal of nomination papers of the candidates.

(3) to recommend date/dates for holding elections in different constituencies of the Union Parliament and the State Legislatures.

(4) to conduct elections to the offices of the President and the Vice-President of our Republic.

(5) to conduct elections of the representative of the Union and the State Legislatures.

(6) to designate and nominate the Returning officers for elections to the Parliament and State Legislatures.

(7) to request the President or the Governor of a State as the case may be to make available of the necessary staff for conducting elections.

(8) to exercise supervision, direction and control over the Chief Electoral officers of the States in conducting elections.

(9) to determine the number of the seats to be reserved for the scheduled castes and the Scheduled Tribes in the Lok Sabha as well as the Vidhan Sabhas of the States.

(10) to advise the President of India or the Governor of a State as the case may be in deciding whether a member of Parliament or of a State Legislature is subject to any disqualification.

(11) to enquire and settle disputes connected with the election arrangements with the assistance of the Returning officers or any other officer appointed by the Election Commission.

(12) to conduct bye-elections to fill in vacancies arising from time to time in Parliament and the State Legislatures.

(13) to issue a code of conduct to be observed by all political parties, candidates and people at the time of elections.

(14) to settle a dispute regarding allotment of symbols to a political party for the purpose at the time of parliamentary or Assembly elections.

In this connection we may point out that the election disputes are now dealt with in the High Courts of the States. The Constitution of India ensures that the Parliament and Assembly elections are conducted freely and impartially. The Election Commission administers an all-India basis. There is no separate Election Commission for a State. A centralised election machinery alone will be able to eliminate the possibility on the State Governments to bring in an administrative manner. Again, it has been pointed out that the appointment of the members of the Election Commission by the President on the advice of his Prime Minister may make room for the exercise of political influences. Hence the constitutional experts agree that the President should appoint the Election Commissioners on the recommendation of a committee including the Chief Justice of India and the leader of the opposition of the Lok Sabha.

Q. 65 Discuss the nature of electoral trends or voting behaviour in Indian Political System.

Ans. The democratic polity of India, in its size, population and resources is the world's highest participatory democracy. In terms of its electorate it is also the world's largest participatory political system based on universal adult franchise, which is effectively exercised at regular periodic elections (at present in our national politics 5 to 6 years) in the Parliament (Lok Sabha) and States Legislative Assemblies. The Indian electorate has increased since the last general elections in 1952 as a consequence of the increase in population by over 130 percent in just four decades. Indian electorate was 174.21 million in 1952 (first general elections) and was the reduction of age of voting from 21 to 18 by the Sixty-fourth Amendment to the Constitution in 1989, it increased to 498.54 million in the Ninth general elections (1984). And it had further increased to 619.0 million in 1999 (Thirteenth Lok Sabha elections) and again to 65 crore in 14th general elections. Interestingly, this electoral population is equal to the total electoral population of the world's fifteen most

advanced democratic countries (i.e. America, England, France, Canada, Germany, Switzerland etc.)

It is true that in our political system since 1947 the electoral awareness has grown, knowledge about parties, candidates and issues has expanded and the range of activity of the representative party system and parliamentary democracy has been strengthened by the deeper involvement of the people in politics and by a fairly high level of participation in elections generally and specially for the choice of the voter for a candidate in a party electoral task. Many complex factors determine the voting behaviour and some of them may be analysed below.

(1) In India, the party identification was fairly stable between 1947-50. With the newer members dying and a few others entering the electorate since the 1951 general elections, the identification of voting party identification has considerably decreased. Now young voters throughout the country are which accounts for the sharp rise in the party identification. Nevertheless, the ideological workers, the agricultural labourers, the party activists and their families and the backward caste and scheduled caste and scheduled tribes and the Muslims generally are the voters on party lines. It is significant with the change in the party system in India, the image of the party has become a greater consideration. The image of a party has become a factor within Indian culture. It overcomes caste and religious party and endures some of its advantage. For example, N. Indira Gandhi Congress Party and A. Biju Patnaik Congress Party have won elections on the strength of their personal image and image.

(2) The candidate identification is also an important political voting determinant in our Lok Sabha and Assembly elections. Like the image of the party leader, the image of the party candidate also accounts for the people. The voters who are make voting choices. Many well-known ruling and opposition leaders have been voted to power because of their integrity and honesty of purpose.

(3) In our democracy the election outcomes of the past twenty-five years have been conspicuous in the social and economic orientations. And domestic issues affecting the people directly have proved crucial. In every general election since 1951

the Indian electorate have voted on national issues involving unity and integrity of India, the new Government etc. It is true that the rural voters are more concerned with the local and regional problems during the poll.

In the recent years, sex has received special attention as an important influence on political behaviour. Women participation which was as low as 10 per cent in 1952 Lok Sabha elections increased to 20 per cent in the 1971 general elections in 1971. Again, when issues concerning women's rights and interests had played in the party manifestos of the party leaders or candidate happens to be a woman, the women voters come out in large numbers to express their preference. During Indira Gandhi's regime, the Indian women voted in large numbers and that took the Congress Party steadily to power of their sex affinity.

Education and literacy are the other determinants of the voting behaviour in India. The two and undivided electorate are now least likely to vote because they have a little stake in democracy and civic. But voting turnout is high among the higher educated groups and in some towns tends to be lower than among the illiterate and poor. The reason for this is not far to seek. The majority of the voters are poor and illiterate. They are open to exploitation and the political candidates often exploit this weakness to cast as a vote-buyer in front of the poor voters on the polling day. The rural and festival atmosphere of the elections is also a factor which results in higher voter turnout. However, when social and economic conditions improve and the monetary considerations lose their relevance.

(4) Caste and race. Caste and race factors are still very important in our elections although their influence varies considerably in different States and in some communities and regions. Caste and race are still so great and is increasing. For example, States like Haryana, U.P. and Bihar where the population is composed of Jats, Rajputs, Thakurs and Yadavs etc., caste is still a powerful determinant. It is not without reason that the news media are busy assessing the trends and results of elections in terms of caste and race and the caste breakup of the voters.

(5) The Indian is a secular State majority of us think in terms of caste and race. Since Muslims, Jats, Thakurs etc. Taking caste and race into account, the political

parties operate on the basis of religion and community. For example the Muslim League claims to be the representative of the Indian Muslims, the Akali Dal is held to be a political party of the Sikhs, while the Bharatiya Janata Party (BJP) is a party of the Hindus. Similarly the Bahujan Samaj Party is primarily a party of the Dalits, while the LMK and AIADMK represent the upper middle-class of non-Brahmins of Tamil Nadu. All these divisions and formations on the religious and communal bases do have a bearing on the political outlook of the voters. In India there has never been a single General or State election (Lok Sabha or State Assembly) in which the bonds of the community, religion and language have not affected the judgement of some sections of the voters.

(ii) With the decline in the strong party identities, there has been a corresponding increase in the number of floating voters in the style of elections in Indian politics. These voters have no party loyalties. So, they create a political climate for a wave and prove a decisive factor in the electoral vote they. These young educated voters are always ready to shift their support from one party to another if they find that the party they had voted for in the previous elections had not lived up to their expectations.

The characteristics of the above behaviour reveal the fact that the political, social caste, religion, language and community and economic factors have determined the voting behaviour of our electoral voters. Most of the voters prefer the spiritual and peaceful civilisation of the caste, tribes and religions rather than a wholesale revolutionary restructuring of the entire society.

Q 95 Discuss the main features (elements) of election procedure (process) in India.

Ans. The Republic of India, in its size, population and resources is the world's biggest parliamentary democracy in terms of its electorate. It is also the world's largest parliament, a political system based on universal adult franchise which is effectively exercised at regular periodic elections at all levels of government—from the grassroots tier—Panchayat Raj and Nagarpalikas to the State Legislative Assemblies and the Parliament. In our indirect democratic political system, the people elect their representatives to rule over them but have control on them. The

main features of the Indian election procedures are as follows —

1. We have no Federal Commission on All-India basis. There is no separate Election Commission for our federating units (States). The administrative machinery for conducting elections both Union and States works under the supervision, control and direction of the Election Commission of India.

2. The Election Commission regulates political parties for the purpose of election and grants them the status of National or State parties on the basis of their past performance. Presently only that party will be treated as an All-India party or a National party which has been recognised as such in three States (e.g. Vidhan Sabhas) and it has polled more than four per cent (4%) of the valid votes in at least one election of the Lok Sabha. The Election Commission also awards symbols to the National and State parties and regulates and controls too. It has also been empowered to settle symbol-disputes.

3. There is a single general election held for every constituency for election to the Lok Sabha in the Vidhan Sabhas and not separate elections for different constituencies and members as during the British colonial period. For registration of a person as a voter it is stated that the person should be of legal age, of sound mind, of the religious or race of any caste. Right to vote is denied only on the ground of being convicted and sentenced of murder, removal of crime or of corrupt and illegal practice.

4. The population base has increased, since the first general elections in 1951-52 was 74 million in 1952 and with the percentage of the population from 11 to 21 to 8 by the 64th Amendment Act, 1991 it increased to 108 million at the Ninth election in 1991. The number of Lok Sabha elections 2004, the population of the country was 1.1 billion. It was 16% of India's total population approximately. This "electoral population" is equal to the total adult population of the world's fifteen most advanced democratic countries i.e. England, America, Russia, France, Canada, etc. Again the Lok Sabha or any of the State Legislative Assemblies can be dissolved before its term of five years has expired. Consequently the electoral rolls will have to be re-constituted and it is to be seen that the new Lok Sabha or Assembly can be made more without any difficulty.

5. For election to the Lok Sabha and the Vidhan Sabhas, the

practices indulged in by and on behalf of a candidate (vi) lack of clear rules prohibiting parties and groups from indulging in communal, caste and parochial propaganda that impairs the secular structure of the State and weakens the process of national unity and integration (vii) induction of criminals in election politics, as candidates, leaders and activists (ix) intimidation and impersonation of voters especially from weaker sections and women voters (ix) both capturing and bogus voting in certain constituencies.

Recent electoral reforms: Since 1996 many reforms have been introduced in the Indian electoral system. Some of them may be noted below (a) The period of effective campaigning (i.e., the period between the date of withdrawal and the date of poll) was reduced from 21 to 14 days. (b) conviction for assault on the National Flag and the National Anthem would entail disqualification for contesting election for six years. (c) In future no election was to be countermanded on the death of a candidate. However if the deceased candidate belonged to a recognised party the election would be adjourned. (d) Party conventions would have the right to nominate a reserve candidate. (e) The bye-election should be held within six months after the date the vacancy occurs. (f) The security deposit in Parliamentary elections was raised from Rs. 10,000 to Rs. 25,000 and in State Assembly elections from Rs. 2500 to Rs. 5,000. The security deposit was enhanced as a measure to check the candidature of serious candidates. (g) The expenditure ceiling for a Lok Sabha candidate was raised to 2 lakh. However in 2004 the Election Commission declared that even if the party leaders of each party, national and regional, some of them may not be candidates, could spend unlimited amount as election expenses. (h) The money spent by the candidates or their parties would be from the party fund. (i) The money spent by the candidates and/or their parties was to be reflected on the annual Tax returns to be filed by the respective parties. (j) Unrecognised political parties could submit a list of only 20 candidates and leaders to the Election Commission. (k) Advertisement with religious and political ends would not be shown on Television networks. (l) Nomination papers filed by each candidate would accompany with his/her educational and property qualifications

and also past history (insolvency, bankruptcy, proven criminal records etc.) (m) Re-polls would be held in those booths or constituencies where large-scale violence occurred and unfair means (bribe and booth capturing etc.) were resorted to. (n) Political parties would refrain from criticism of all aspects of private life of a candidate or the leaders of his/her party. (o) The official tours by the Ministers would be suspended in the period between the announcement of elections and the declaration of results. The Ministers and other authorities would not sanction grants out of discretionary funds from the time elections were announced. (p) The transfers and postings of officials on a large scale so the eve of elections would be avoided. (q) Both the individual candidates and their political parties would be required to submit audited accounts of election expenses within a fixed period of time to the Election Commission. (r) The Candidates in the Lok Sabha and State Assembly would submit a copy report on campaign expenditure to the district election officer.

Rutega, a woman 'The Rejuvenation of the People Acts of 1996 and 1997 as amended from time to time and electoral reforms (as required) for the code of conduct may not by themselves guarantee fair elections and healthy political atmosphere. What is needed for the rejuvenation of an enlightened society capable of valuing again the right of workers and masses of power and influence. A serious and systematic rethinking elections should also be done to ensure the integrity, values and goals inscribed in the Constitution are consistently, as the basic credo of the democratic system, what they are called upon to uphold and defend.

Q 185 Examine the success and failure of Universal Adult Franchise in India.

(2).

Discuss the case for and against the Universal Adult Franchise in India.

Ans. The Republic of India, in its size, population and resources is the world's largest parliamentary democracy. In terms of population it is also the world's largest participatory political system based on universal adult franchise, which is exercised exercised at equal periods, elections at all levels of governance—from the grassroots to the Panchayat Raj and

Lastly, some constitutional experts have favoured the lowering of voting age to 18 since 1989. Their arguments are (a) it provides the younger generation a sense of participation in the democratic process and (b) it has introduced a dynamic element in elections and has also made parties and their representatives more conscious of the aspirations, problems and needs of the youth.

There are also certain negative aspects of the electoral system which have been determined partly by the socio-economic environment and partly by the way the electoral system is made to work.

In an unequal society—divided between the rich and the poor, the educated and illiterates, the well-employed and unemployed, between those who have access to social amenities like schools and colleges, recreation and entertainment and those who are denied even elementary necessities of life like clean drinking water, adequate food, clothing and shelter etc. Opportunities offered by the political system and electoral changes are also not equal. In the words of Nehru, political democracy should inevitably lead up to economic democracy.

Five decades of planned development have accounted for considerable growth. But despite all this growth, a startling fact remains—massive poverty of a large number of people. This also influences electoral politics. Illiterate and poor voters tend to be influenced and manipulated by caste leaders and communalist politicians acting as power brokers. They quite easily mislead them in the name of caste and community and sign them into pockets of influence and vote banks. Further, they are also swayed by the populist slogans used by crafty politicians, making hollow promises to win votes. Again, money power is used to buy votes and sometimes muscle power is used to manipulate voters, either into putting block votes or for abstaining from polling. Lastly, sometimes inter-caste and inter-community tensions are engineered by the political dadas on the eve of elections, resulting occasionally in riots, violence, loot and arson.

Critics are of opinion that the lowering of voting age to 18 has made the number of voters more unmanageable. For example—498 million in 1989 (Ninth General elections) to 650 million in the Fourteenth Lok Sabha elections, 2004] and the election

process also has become more expensive (e.g. Ego request's cost—Rs. 880 crores in 1999 to Rs. 1,300 crores in 2004). Again, the involvement of immature youth at 18 may lend itself to populism and political instability at the centre (e.g. coalition Governments since 1989).

By and large elections in India have been free and fair. They have been conducted with remarkable success. The Indian experience has been particularly impressive partly because of its dimensions and the relative inexperience of the people with elections and partly because of the illiteracy of the great majority of the voters. Commenting on the performance of the Indian voters in elections Morris Jones has observed "they are one of the things Indians do well." Furthermore there is, no doubt, much to commend in the view of the favour of providing greater opportunity to the youth in the management of national affairs.

12

THE MINORITIES IN INDIA

Q. 69 Give an account of the special constitutional provisions in favour of the Scheduled Castes and Scheduled Tribes and discuss briefly the value of such provisions.

Ans. The fundamental object of the Constitution of India is to secure to all citizens justice, equality and fraternity. But a large section of the population of India belong to the so-called 'down-trodden' classes. They may be classified into Scheduled Castes and Scheduled Tribes. There is also the Anglo-Indian Community in India.

The Constitution of India does not define the Scheduled Castes and the Scheduled Tribes. According to Articles 1 and 44 of the Constitution, the President of India may make a consultation with the Government of States to declare the various classes of tribes which are included in the Scheduled Castes and Scheduled Tribes of a State. As a result of such consultation, the Anglo-Belongs to the Scheduled Castes and the Lepcha, Bhutia are recognised as Scheduled Tribes.

The Constitution of India provides for the reservation of posts and other services for the Scheduled Castes and Scheduled Tribes in the Government of India and in the States.

11. The Constitution of India provides for the reservation of seats for the Scheduled Castes and Scheduled Tribes in the Legislative Councils and Legislative Assemblies of every State.

12. The names of the members of the National Commission for Scheduled Tribes are taken into consideration in the appointments of members of the National Commission and of the Central Government and the State Governments.

According to the Constitution of India, the President of India has the power to appoint and remove the members of the National Commission for Scheduled Castes and Tribes. The President of India has the power to appoint and remove the members of the National Commission for Scheduled Castes and Tribes.

Under the Constitution of India, the Commissions concerned submit their reports to the President on the working of the safeguards. And the reports are laid before the Houses of Parliament by the President.

13. The President of India may appoint a Commission to report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States.

14. The President may give directions to the States for the execution of schemes which are essential for the welfare of the Scheduled Tribes in the States.

15. Moreover, the Central Government may give financial assistance to a State for the purpose of promoting the welfare of the Scheduled Tribes in that State or raising the level of administration of the Scheduled Areas in the State.

16. The Constitution of India declares that in the States of Bihar, Madhya Pradesh and Orissa there shall be a Minister in charge of the welfare of the Scheduled Castes.

17. In accordance with the provisions of the Constitution, Parliament has enacted the Protection of Civil Rights Act, 1936, which provides penalties for preventing a person on the ground of untouchability from entering a place of public worship, institution etc.

18. The Constitution of India provides for the prohibition of discrimination against any citizens on grounds of religion, race, caste etc. But the State can make special provisions for the promotion of the Scheduled Castes and Scheduled Tribes.

19. According to the Constitution, all citizens have the right to move throughout the territory of India or to acquire, hold or dispose of property. But the State may impose reasonable restrictions in the interest on any Scheduled Tribes.

20. The Constitution of India provides for the throwing open of Hindu religious institutions of public character to all classes and sections of the Hindus.

21. The Constitution also declares that no citizen can be denied admission into any educational institution maintained by the State or receiving aid out of the State funds on grounds of race, caste etc.

22. Lastly, it is the duty of the State to promote the educational progress.

and economic interests of the Scheduled Castes and the Scheduled Tribes and to protect them from social injustice and all forms of exploitation.

Therefore, the Constitution of India has taken some concrete steps for the promotion of welfare of the Scheduled Castes and Scheduled Tribes. For they are backward in social, economic and cultural spheres of life. Hence, the constitutional provisions for their protection are fully justifiable. Our democracy will be a failure if we do not look after the interests of the Scheduled Castes and Scheduled Tribes etc.

13

PARTY SYSTEM AND PRESSURE GROUPS IN INDIA

Q. 70 Discuss the nature of party system in India.

Ans. India's party system originated in the late nineteenth century as a response to the British colonial challenge. In the long drawn struggle against oppression and discrimination, it represented an assertion of national solidarity of the Indian people for building of a new and better democratic India. The beginning of the Indian party system can be traced to the formation of the Congress as a political platform in 1885. From a non-violent national movement, the Congress became a dominant political party after the end of post-independence. For example, The Marxist League, the All India Hindu Mahasabha in 1916 and the Indian National Party in 1919 for several decades (1875-1947) were the main political parties. But the growth and role

of the Congress was a major factor in the constitutionalisation of Indian politics. It was the only party which looked after the people on the basis of the principles of social justice and development of a secular state. The Congress was the only party which acted as a bridge between the people and the government. After the adoption of the Indian Independence Act, 1947, a new and different party system came into being. In the first General election based on the universal adult franchise in 1952.

In the context of India, the party system is a part of our larger political system. It is a product not only of its political environment but also of its history, culture, geography and economy. Many aspects of the Indian political system have a bearing on the nature of the party system. These aspects include the character of the state, the socio-economic conditions, the diversities of India's regional differences, the process of social change and economic development. In the context of India, the party system is a part of our larger political system.

The Indian political system respects free media. It follows the pattern of separation of powers between the legislature, the executive and the judiciary and adheres to the principle of rule of law. It is also a part of the larger democratic federal polity among the many other liberalised countries of the world.

Western countries. Political parties in India did not originate to dethrone the ruling aristocratic groups but to fight against the British imperialist domination or starting a national movement for freedom. The beginning of the Indian party system could be traced to the formation of the Congress as a political platform in December 1885 from a triumphant nationalist movement. The Congress became a dominant political party. Other parties and groups e.g. the Muslim League, the Hindu Mahasabha, the Communist Party etc., emerged later. When India became independent, our party system was in disarray. However, after the adoption of a democratic Constitution in 1950, a new and different party system emerged in the wake of our first general election based on the universal adult franchise in 1952. At present there are many national, State and regional parties vying with one another for political power. The Indian party system exhibits some fundamental features analysed below :-

(1) In India, the national parties are disorganised and ill-grown. This is, our writers acknowledge does not acknowledge the existence of political parties. However, the Representation of the People's Act, 1950 and 1960 as amended from time to time have provided a statutory support to the growth of the party system. Besides Article 325, the Constitution provides for the registration of political associations. Lastly, the Constitution 31st Section Amendment Act has been passed in 1988 in order to remove the evil effects of ill-governed election in our parliamentary politics. Yet the political parties are central to our political process. As the party system and democratic system are inseparable in our parliamentary practice, the national parties are necessary in Indian political system because they form a bridge between the Government (Legislature and Ministry) and the governed electorate which gives meaning to the representative system. To the Indian electorate, therefore, political parties appear as the arteries of the body politics.

(2) India has neither a single party system as it obtains in China nor a bi-party system as it prevails in countries like Great Britain and America. Here operates a multi-party system as obtained in France, Japan, or Switzerland. Because of the vastness of the country and diversity of views, opinions, faiths and ideology, political parties in India are of a heterogeneous character. The

Election Commission in India has recognised four to six parties as All India parties—Indian National Congress, B. J. P. and two Continental parties—C. P. I. & C. P. I. (M). Besides there are more than 100 regional or State-level parties e.g. DMK and AIADMK in Tamil Nadu, National Conference in Kashmir, Akali Dal in Punjab, R. S. P. and Forward Block, Trinamool Congress in West Bengal etc. and also many political organisations appear in the event of every general election. And their participation in electoral politics indicates the fact of India's having the largest number of parties in the world. This is the reason that since 1989, we have witnessed the transition from multi-party situation to a coalition Government at the Centre. In the thirteenth General Election of Lok Sabha in 1991 the B. J. P. and its allies in the National Democratic Front (N. D. F.) have obtained a clear majority in the Lok Sabha and constituted the coalition Government at the Centre.

(3) It has been aptly remarked that India has one dominant party system without any effective rival in the Indian National Congress (except the B. J. P. in 1984 general election). The Congress has won 300 votes in our thirteenth General parliamentary elections in 1991 have given it the character not only of a dominant party in the multi-party situation in India's parliamentary system but has also made the Indian National Congress the one and only All-India party in terms of its territorial spread, electoral appeal and popular aspirations. The Indian National Congress has monopolised the Central politics from 1947-1977, 1980-1984 etc. The blessings and curses of the Congress party have determined the rise and fall, even the very survival, of other parties struggling to have their names mentioned on the voting slip of India. It is rightly said that India can no longer be properly described as a one-party State but there is still much to be said about a dominant party system so far as the national scene is concerned.

(4) We know that there has been a mushroom growth of national, regional and provincial parties in India. It is all the more disturbing that from the Jans Morcha to the Janata Loktantrik Front and so on little prickly political plants have sprung up and are now after. This unusual growth of political parties is the result of a series of complex interrelated

should organise an effective opposition. There is no need of any grand alliance as it pollutes the political atmosphere instead of solving the major problems facing the country.

Q. 72 Discuss the ideology and programmes of the Indian National Congress.

Ans. The Indian National Congress is the oldest political party in the country. It has the privilege to be in the vanguard of the mighty national movement which brought freedom to the country. This organisation was founded in December 1885 from a triumphant national movement the Congress became a formal political party. The Indian National Congress since independence has been the most pervasive political force in the country. It has been both an All-India party and a regional-regional party often playing two different roles in the two spheres of the Indian polity, i.e., National and State levels. It has been a macro-political system, holding together micro sub-systems (factions, political groups, lobbies, etc.) which constantly interact on the political processes of the Congress party presenting it structurally a multi-caste, multi-community and a multi-class base. Ideologically it has rightist, leftist and centrist strands within it.

Indeed, the "umbrella" character of the Indian National Congress has been its hallmark. It unites within its fold a wide range of ideological, class, regional and interest groups, originally antagonistic but united by a common sense of survival and political ambition for power and prestige in the country's largest political party. Taking advantage of its flexible posture in politics, the many groups and classes attempt to change its direction and policies to suit their sectional purposes and political perspectives.

The political support structure of the Indian National Congress covers the entire rural hinterland of the subcontinent and almost all the towns and cities in practically every region of the country providing it with almost a continuous popular electoral support base in the parliamentary elections.

The policies and programmes of the Indian National Congress are as follows:

(a) **Political** (i) to promise to the people a stable and experienced Government (ii) to disseminate the idea that a coalition Government of regional parties can be a true reflection of our federal character (iii) to carry on a relentless fight against

(iv) to end and to free all national activities (d) to make Panchayats and Panchajanyas as the true voices of the people.

(b) **Economic** (i) to pledge to implement a radical economic and financial reformation, (ii) to amend our constitution in order to reserve one-third of all Parliamentary and Assembly seats to women (iii) to preserve the country's unity and integrity (iv) to bring sweeping reforms in judiciary.

(c) **Education** (i) to pursue an employment-oriented development strategy (ii) to encourage efforts to augment and produce more jobs (iii) to double annual expenditure on primary education and social development programmes (d) to allow private and foreign capital (insurance sector and (e) to introduce reservation scheme for weavers, garment workers, leather and plantation workers.

(d) **Women** (i) to protect the interest of minorities in public services and to develop a agency to promote and to develop Indian language in the Pradesh (ii) to set up the state level technical institutions to train in agriculture, (iii) to produce 6 per cent of the students of the education by the year 2005, and (iv) to ensure the passage of new reservation law to eliminate reservation about the national plan and in all Scheduled Caste and Scheduled Tribes.

(e) **Foreign Policy** (i) to pursue objectives of peace in the international system (ii) to establish a National Security Council more powerful and (iii) to support the UNO establishment, (iv) to ensure that it is working with cooperation with the United States, Russia and (v) to ensure exchange of views with major international and global issues with the United Nations.

Organisational Structure The Indian National Congress is a large and complex party with a very complex organisation. It is organised at the village level, districts, provinces and on a national level. The organisational structure of the Indian National Congress is as follows: (i) the highest body is the All-India Congress Committee. (ii) next level executive of the party organisation is the Working Committee. Below it is the Parliamentary Board. In the State level the highest party organisation is the Provincial Congress Committee. Next is the District Congress Committee and below it is the Block Congress Committee. The lowest unit is called the Ward Committee.

The Indian National Congress's popular votes in the thirteenth General parliamentary elections (1977-1979) despite being less than 30 percent in every election (1957: 42%, 1962: 40%, 1967: 37%, 1971: 34%, 1984-1985: 38%, 1989-1990: 34%, 1991-1995: 30.1-35 years) has nevertheless been more than the percentage of votes of any other party. The capacity of the Indian National Congress is attracting popular electoral support and obtaining a majority of seats in the Lok Sabha (except in 1977-1979, 1984-1985, 1989-1990) at the Centre has given it the character not only of a dominant party in the multi-party situation in India's parliamentary democratic system, but has also made the Congress the one and the only All-India party in terms of its territorial spread, electoral appeal and political ramifications. All other parties are at best, as of now, trans-regional and multi-State parties or, in-State and regional parties and despite some of them claiming to be All-India in name and ambition.

The Indian National Congress has always been either in power or has been the largest opposition party in Parliament of the 1977-1989, 1990-1991. It has always had broad support in most States of the Indian Union than any other party. The Indian National Congress has always been a tolerant party accepting almost every shade of opinions. For a hundred years now the Indian National Congress has remained the main political organisation of the Indian people. Its achievements and losses, its strength and weakness and its moments of glory and tragedies have all been an integral part of the Indian political scene.

Q. 78. Discuss the ideology and programmes of the Bharatiya Janata Party (B.J.P.)

Ans. The Bharatiya Janata Party (B.J.P.) established in December 1980 is the new and modified version of the Bharatiya Jana Sangh that was founded in October 1951. The B.J.P. has points of continuity with the Jana Sangh in its discipline and well-knit organisational set up and in its linkage with the traditional Hindu socio-cultural organisations—Rashtriya Swayamsevak Sangha (R.S.S.) and the Vishwa Hindu Parishad (V.H.P.). With certain variations in its political perspective and policy orientations, the B.J.P. has close affinity with the erstwhile Jana Sangh.

The Bharatiya Janata Party like its predecessor the Jana Sangh has a strong electoral support base in the Hindu belt especially

among the small and medium traders and shopkeepers in the urban and the rural areas among the traditional business community in Vashvas and Jains, among the masses attuned to the traditional view of nobility but also among the middle level professionals and service personnel. Since 1980, it has extended its influence pockets in South India, particularly in Kerala, Karnataka and Andhra Pradesh. After 1989, the B.J.P. has also spread its influence in Madhya Pradesh, Rajasthan, Gujarat and Delhi.

The objectives and program lines of the Bharatiya Janata Party are as follows:

(i) *Pradhan* (a) to promote clean public life by evolving effective mechanisms to link the nexus between the corrupt bureaucrats, politicians and businessmen; (b) to strengthen the institution of Lok Pal and Lokayuktas; (c) to have a free press accessible to all elected bodies (e.g. the Lok Sabha and the Vidhan Sabhas) and (d) to introduce thorough going electoral, judicial and administrative reforms in the country.

(ii) *Kutumb* (a) to give to States a fairer share of Central resources and to ease the financial powers; (b) to earmark 5% per cent of the plan funds for public investment in agriculture, (c) decentralisation of plan funds; (d) to adopt a National Water Policy and to develop an effective and prompt settlement of water disputes between the States and (e) to continue reforms process to aim at removing unemployment.

(iii) *Samaj* (a) guarantee to all minorities—linguistic and religious—freedom and security and full opportunity for progress and development; (b) to end the secularism of the present Minority Commission; (c) to make a set of special services for the speedy settlement of all claims; (d) to take strong action against those among the minorities and religious fundamentalists and reactionaries who deny equal legal rights to members of all communities, (e) to ensure the existence and introduction of compulsory primary education.

(iv) *Foreign Policy* (a) to work towards expanding dynamism to the foreign environment; (b) to work actively towards reviving its role as a great power; (c) to pursue a policy of non-alignment and co-operation with the neighbouring countries; (d) to strengthen SAARC and establish a regional

The reasons for the emergence of the regional parties in India are described below.

1) The emergence of regional parties in Indian politics seems to have a geo-political rationale. The continental size of the country comprising well-defined and distinct socio-cultural regions, with their own languages and dialects, specific patterns of caste community and tribal formations, has provided the objective conditions for the rise of regional parties and groups. Besides in India are sub-national units under conditions of freedom and a democratic political system, the regions are bound to demand and quite legitimately their autonomous right of self-development. This is the logic of the federal system. Naturally, therefore, the rise and persistence of regional demands is inevitable. This has resulted in the emergence and popularity of the regional parties in India.

2) In India, there are the regions which are at a distance from the national capital. People living in some of the regions under the Centre and the national parties for not knowing their local problems. This is also the case of South Indian regions, as they do not identify themselves with the national parties, as they have not cut sympathy for the national parties. For example, People's Front, Sukshma Democratic Front, Marathi Samaj Congress Party etc.

3) The birth and growth of regional parties is closely related to the organisational aspects of the Indian National Congress. In the Congress party over the years. When the Congress was strong in organisation and ideology the regional parties were practically non-existent. As the Congress organisational factors weakened the regional parties were encouraged. Later on, the Indian National Congress has been regenerated into a personality cult organisation. As a result the regional parties have grown in strength and number. Most regional parties have grown in the last two decades as instruments to capture the non-Congress vote in their respective States.

4) In the Southern regions of our country some of the leaders have tried to portray the North India as expansionist, hegemonic and even imperialist in the designs. This unbridled animosity between the North and the South has been further accentuated by identifying the Southern leadership as Aryan,

Brahminical and Kshatriya. This is dominant in Dravidian, non-Brahmin, low and middle caste groups imbued with a democratic ambition to play a fair and equal role in our political system. The DMK of Anna Dada is the classic example of a party being led on Anti-North, Anti-Brahmin and Anti-Hindu sentiments along with Anti-low caste Southern parties. The DMK and AIADMK have tried away of their old prejudices.

5) The way of expression of political autonomy in our federalism is the demand of regional political parties in order to integrate with the Centre for a better deal of regional development. For example, the State like Punjab, West Bengal, Tamil Nadu, Kerala, etc. need to be made to be a structure with greater powers to be able to federate its economic and political spheres.

Most regional parties have a strong focus on important political formations such as size and electoral support. Again, many of the regional parties have a character similar to pressure and interest groups, not in their structure and role in the political system.

Q 76. Distinguish the different views of regional parties in India. How is a regional party different from a national party?

Ans. Regional parties in India are a relatively complicated phenomenon, for within every region there are sub-regions. There have given birth to political parties more political in their objectives than the State wide parties. These parties sometimes play a vital role in the development and the growth of regional parties especially in the less developed regions.

Legally speaking there is no regional party as such provided for by any act of the Indian Parliament. The Commission recognises two types of sub-national parties and State parties. In general political parties are termed as regional parties. At the time of the 1960s, the 4th Lok Sabha held in September 1960, for the first time regional parties recognised by the Election Commission as State parties.

There have been three types of regional parties in India.

First, even though has shown that the Congress Party as a national party had neglected to give adequate importance to its regional or State units. Over the years there had been discontent expressed by the State leadership against the oversight or lack of development which showed to them in this situation, it was not too difficult for an alternative political format to emerge in the shape of regional parties. Thus, for years the Congress dissidents,

off and on, formed several regional parties and groups, most of them short-lived and often for an ad-hoc purpose as a bargaining counter. Examples of this have been the Jangals, Kapsals, the Keralite Congress, the Vishva Haryana Parishad and the Telangana Praja Samithi.

Second, the second type are tribal parties as 'tribal points' in building a tribal political identity and as a platform for obtaining more concessions from the Centre. They have often taken the form of secession from India and demanded complete independence. Examples of this trend have been the Naga National Council, the Mizoram National Front, the Manipur People's Party etc. The All India Tribal Leaders' Conference—the principal political organ of the tribal leadership, played a formative role in the emergence of Nagaland and Meghalaya, its role has also facilitated the creation of other States in the region. In Jharkhand, the Jharkhand Congress and the Jharkhand Scheduled Caste League are alone parties. The Jharkhand Party has been in existence since independence. And the Lok Jansangh league of West Bengal has slowly developed into a political organisation and with the establishment of a Legislative Council has assumed an all-inclusive form for the settlement of its demand for Gorkha Autonomy.

Thirdly, the third type of regional parties are larger political formations of ethnically, culturally and linguistically distinct groups like Tamil Nadu, Andhra Pradesh, Punjab, Karnataka and Assam. These parties are upper in their composition, well-organised, with a clear organisation and more stable in their role as important components of the multi-party system of India. Because of their electoral majority in the State Vidhan Sabha, they also have the capacity to send their members to the Lok Sabha and the Rajya Sabha and play a critical role as a balancing factor between the ruling coalition and the major opposition parties in the Parliament After the 1984 elections, for instance, the Telugu Desam Party (TDP) became the largest opposition party in the Lok Sabha. It has also been an important partner in the National Democratic Alliance Government (1995-2004). For years the DMK and the AIADMK members had been a factor of consequence in a Parliament. In Assam, the Asom Gana Parishad (AGP) represents a cross-section of the Assamese people and follows a policy of progressive development.

In India's federal structure, parties, regional and local parties would continue to have relevance and appeal, especially for certain economic, social and economic interests. Their influence waxes and wanes in the context of national parties. Several regional parties became coalition partners of national parties in forming State Governments.

National Party and Regional Party—Differences

The differences between a national party and a regional party are as follows:

First, the national parties have influence all over the country or many States of India (e.g. the Indian National Congress). On the other hand, the influence of a regional party extends to one State or a few regions (e.g. the Telugu Desam party of Andhra Pradesh).

Second, an exclusive symbol, known as "Flag" for the Indian National Congress is granted to a national party throughout the country. But in case of a regional party, a symbol is reserved for just the State in which it is registered. For instance, the symbol of Ramayana is DMK of Tamil Nadu.

Third, the regional parties usually stand for greater autonomy for States. For example, the DMK and AIADMK of Tamil Nadu for Andhra Pradesh and the National Conference in Jammu and Kashmir demand greater autonomy for their respective States. But the National parties have to harmonise many

long regional interests, e.g. water disputes, language problems etc.

Fourth, that party will be treated as a National Party which is recognised in all States in the Lok Sabha (e.g. the Indian National Congress). On the other hand, for being recognised as a Regional Party of a State, it should have been engaged in elections for a continuous period of five years (e.g., the National Conference in Kashmir).

Lastly, the national parties are more concerned with national issues, while as regional parties protect and promote mainly regional issues. For example, the insurgency in Kashmir and the North-eastern States, foreign capital and technology, fiscal incentives to attract foreign investment, foreign trade, environment etc.

are the concerns of national parties. But the regional parties concern themselves with local or regional matters. The DMK for instance has been by the Tamilians as defender of the Dravidian culture. Again, the leaders of regional parties in Karnataka or Tamil Nadu look only towards their respective States for the hallowed waters.

Q. 77 Analyse the role of the regional political parties in India Politics

Ans. The continental size of the country comprising well-defined and distinct socio-cultural regions with their own languages and dialects, specific patterns of caste communities and their formations, provided the objective conditions for the rise of regional parties and groups in Indian political scene. Regions in India are sub-national units. Under conditions of bicameral and democratic political systems, the regions were bound to be ruled indirectly, quite legitimately, their autonomous right in self development. Thus is the logic of the federal system. Naturally, therefore, the rise of regional demands was inevitable. This resulted in the emergence and popularity of regional parties.

Legally speaking, there is no regional party as such prescribed in by and law of the nation. The Election Commission of India recognises two types of parties—the National parties and the State parties. In general parlance the State parties are treated as regional parties. At the time of elections to the 1991 Lok Sabha held in 1991, there were 18 regional parties recognised by our Election Commission as State parties.

Most regional parties have grown in the last three decades as instruments to capture the anti-Congress space in their respective States and sometimes they play a crucial role in State politics. The regional parties—the DMK and A. ADMK, Asom Gana Parishad, Nagaland People's Council etc., maintain that the problems of their regions are not being attended to by the Central Government. Other major regional parties like the National Conference, Jharkhand Desam Party, Akali Dal etc. are some about the lack of educational facilities, good roads, water, electricity and communications in their respective regions.

In the early years of Indian independence, the role of regional

parties in an elective political system was not minimal. They were not a major force reckoned with. But with the general elections held in 1967, a major change came about in State politics and many different parties came into existence in various States (e.g. the N.F.P. in West Bengal, United Front, Government of Madhya Pradesh, Lok Dal, Bihar, etc.). Though after 1967 the regional parties started moving up the ladder of power, but despite this the Lok Dal party was considered to be more or less a single party domination system, and the Congress was the dominant party. But after election to the Ninth Lok Sabha held in 1980, the region with a large population like the single party got absolute majority in the Lok Sabha. Again in 1984, some of the parties succeeded in getting absolute majority in the Tenth Lok Sabha. The Congress in 1984 and May 1987 retained the relative majority and a single party which got an absolute majority in the Eleventh Lok Sabha. Since regional parties and local national political parties have gradually grown in numbers, social and political consciousness of the people has been raised. It was not only that the regional parties emerged as dominant force in national politics, but also the social and political awareness of the people was raised. General elections of 1991 were all the more important. The Lok Sabha elected in 1991 was not only was also a convergence of national and regional parties. As the Congress and Lok Sabha Party lost power in May 1991, a single party which got an absolute majority in the Lok Sabha—regional and a national parties (e.g. Congress, Bharatiya Janata Party, leaders up to the BJP and the Congress Party and others) came. And in the thirteenth Lok Sabha elected in September 1999, the regional parties like M.K. Samanta Party, National Alliance Akali Dal, Jharkhand People's Party, etc. were a part of the United Government led by Bharatiya Janata Party.

Likewise, the political party system has made the regional parties demand more regional parties since no single party was able to secure absolute majority in the Lok Sabha. Since the 1991 Election, 1991, there has not been a single party which has been able to secure a majority in the Lok Sabha with the regional parties. Most regional

parties have come to stay as important political formations enjoying sizeable electoral support. In India's federal democratic polity, regional and local parties would continue to have relevance and appeal, especially for certain dominant social and economic interests. Many of these parties, in effect, have a characteristic similar to pressure and interest groups, both in their size and role in the political system. Their influence waxes and wanes in the context of national parties. Several regional parties become coalition partners of national parties in forming State Governments. Some regional parties however remain stable and major political formations in few States. In short, in our parliamentary coalition political system, the national parties cannot afford to ignore the regional political parties.

Q. 78. Discuss the role of the Opposition in the Indian Parliament.

Ans. The Constitution of the India is written like Great Britain, India has also adopted the parliamentary form of Government in the country. But the political parties have not been mentioned anywhere in the constitution of India. They are extra-Constitutional. In spite of this the political parties are indispensable in our parliamentary democratic system. They have greatly enriched the electorate, the ministry and the Parliament. In a word, the political parties have made the Constitution workable.

Like the Britishers, the Indians also believe that the parliamentary democracy is a Government by consent or consensus. Democratic Government like ours means not only a majority but also a minority. The parliamentary Government discharges its duties because of the role of the opposition. In our parliamentary democratic political system, the role and importance of the opposition cannot be overemphasised as the proper working of the entire Governmental machinery depends upon it. As a matter of fact, our parliamentary democracy cannot be successful without a strong and well organised opposition in the Lok Sabha.

In India, because of multi-party system, no opposition party could effectively challenge the ruling party at the Centre until

1977. In the Sixth General Election, 1977, the country had for the first time an official opposition (e.g. the Jharkha Gaurdha Congress Party in the Lok Sabha). But in the Seventh (1980) and Eighth (1984) General Elections, the opposition parties became again very pathetic. However, in the Ninth General Elections (1989), the Congress party acted as a recognised and formidable opposition party. In the Tenth (1991) and Eleventh (1996) Lok Sabha Elections, the Bharatiya Janata Party (B. J. P.) enjoyed the status of the main opposition party. In BJP-led Alliance assuming the reins of power in the twelfth and Thirteenth (1998 and 1999) General Elections, the Indian National Congress became the official opposition in the Lok Sabha. In the Fourteenth Lok Sabha elections (2013), the U.P. enjoyed the status of main opposition party.

The opposition has an important role to play in our democratic polity when it exercises adequate checks on the Government. The opposition party highlights the errors of administration and continuously to prevent any wrong policy or action arising arbitrarily and unaccountably. The opposition is entitled to criticise and even wage a struggle against an irresponsible Minister. The opposition keeps the Government alert to make a correct decision. When the Government was a minority in the Lok Sabha, the opposition cannot expect a Government to resign. The opposition keeps the people alert about the undemocratic activities of the Government through its press, platform and other media. The real dividing power makes the Union Ministry to discharge its duties and be conscious of the larger interests of the people. In the Lok Sabha, the opposition parties over the years never spared a Government which was found negligent in its duties. They raised their voice against inflation, unemployment and administrative malpractices such as NDA, FEMA, POTA etc.

In the process of opposition the Parliamentary system is well consulted and it is time to expose weaknesses and failures of the Ministers and administrative agencies e.g. Bhopal Gas Tragedy, Bank Secrecy Scam, Talaika scam etc. The opposition is also regarded as the voice through which Parliament can obtain detailed and accurate

information as to what legislation is needed for the country. Parliamentary debates and investigations tend to be resurgences of the Ministers in the past.

In India's system of parliamentary practice the opposition has come to be regarded as a shadow cabinet, or alternative Government, or Government in reserve. A leader's task on the opposition bench is no less important than that of a minister. Thus the important members of the opposition get specialised in a particular activity, like external affairs, financial matters, defence and the railways. Like in Britain, our parliamentary democracy also admits the claim of opposition to criticise. And the opposition embroils in order to win the public support against the Ministry. However, the opposition in our democracy does not always like to disturb the Government. Its main aim is to compel the Union Government to formulate its plans and policies in the national interest.

However, it should not be supposed that the opposition is always opposing and that its role is only to obstruct and harass the Government. There may be genuine differences between the ruling and opposition parties, yet they should agree on certain fundamentals. For example, there is very little scope of disagreement about centralised vs. decentralised programmes of decentralisation, making Panchayats and other local bodies functionally autonomous and more powerful, fighting corruption, judicial reforms and ameliorating the lot of workers and poor peasants. Similarly, no party will compromise on its integrity, integrity and honesty or curbing inflation. If such concerns really exist, there is no need for the parties to be at loggerheads always.

In this connection, we may point out that in England, the opposition is strong and well-organised. It plays an important role in the British parliamentary Government. But in India, the opposition is still a personal combination of splinter parties or groups who often speak with cross purposes and suffer internal contradictions because of their gross and selfish attitudes towards the Government. The role of the opposition parties in Women's Reservation Bill, construction of Ram Mandir and Shahi Masjid

the Lok Pal Bill add to this point. This is because the different opposition parties at our Parliament sometimes present a confused picture.

An realistic analysis of the workings of Parliament reveal the fact that the oppositions are not disciplined. The opposition often engages in unproductive and damaging activities also. Blocking the business of the Lok Sabha through adjourns and gherritos and calling for adjournment questions on some trivial points have yielded no fruitful results but the Government has a lot of money. It has been estimated that on every minute in the Lok Sabha and the Rajya Sabha, costs the nation Rs. 2,700 or Rs. 9,42,000 per hour. Further, a senior MP in Parliament said that the unruly scenes, chaos and disruption involved in a 10 per cent loss of time during the Twelfth Lok Sabha.

The above situation should be realised that by adopting extra-constitutional methods the opposition Party or Parties cannot defeat the Government, but at the same time the administration of the country will not be a serene balance and mutual trust between the Leader of the Lok Sabha, Prime Minister and the Leader of the Opposition. It should not be forgotten that one who is not in opposition is the Champion of the Government he is not part of the opposition. The Government should not fear the opposition questions of its opponents. And the opposition is always expected to look at things always negatively. As the second stage in the development of the parliamentary democracy Government is expected to be criticised by the Opposition by the Lok Sabha, the opposition should exercise a constructive role in the workings of Parliament.

Q. 9 Discuss the problems of the Indian Party System. Suggest what steps may be initiated to improve the party system in India.

(10)

Examine the shortcomings of the Party System in India.

Ans. The Fundamental Principles of the Constitution of India have been established and in the national plan at the time of emergency, the rights of all persons regardless of sex, religion, caste, creed etc. The success of our parliamentary democracy

Government depends on the existence of two or three strong and well-organised political parties and observance of democratic norms by the parties. But the Indian party system is troubled by many problems.

First, the political parties are devoid of leaders, committed to their ideology and democratic norms. Opportunism and opportunistic alliances have demoralised politics and made it a sordid affair. For instance, the Indian masses have given a massive mandate to the Congress Party in 1984 Lok Sabha elections. The party's image got sullied because it drifted away from its principles and its promise to give a clean government. Such a crisis abounds practically in all the parties which have a loose organisation. The promising young men and women tend to shun politics because of the dearth of such leaders as have made it a duty game.

Second, India has had a multiparty system. Before 1947 there was no political party in the Lok Sabha which took its recorder the status of the official opposition. The Nani Lok Sabha (1989) of the National Front Government led by V. P. Singh, was constituted with a lot of loose opposition party like the Congress Party. After four consecutive successive victories (1987-96/8), the Thirteenth General Election (1996) gave a conclusive verdict. The ruling governments have no majority at the Centre. Also in the Fourteenth Lok Sabha elections of 2004, the Bharatiya Janata Party and the Indian National Congress are now emerging as the two major poles of Indian politics. Therefore, it seems likely that even coalition governments will not give a strong and efficient Government to the country.

Third, the role of money and money powers in our General Elections have adversely affected the working of political parties. For example, in our General Election, the cost of advertisement released by the parties to the Press etc. has been reported to be around 600 to 700 crores of rupees. Where does all that money come from? The only answer is that the Indian National parties are dependent on the capitalists and big industrial houses for their election funds. This corruption must be attacked at all levels. Again, the money-power sets at naught political faith in the electoral process.

Fourth, the Indian political parties are faced by the problems of casteism, regionalism, linguistic and communalism. It is not that only minority voters are swayed by these factors. Even the most sophisticated persons (electors) are found whipping up regional and communal passions. Our General Elections in the Lok Sabha have revealed that in all the risk of protection for the weaker sections of the society, the participation by these sections in the electoral process is fraught with peril to the electors.

Fifth, the political parties need to have clear cut ideology and the party discipline must be observed with a sense of discipline. But in India, the notion of discipline is so all pervading that the members of the party join the opposing party without least hesitation and sense of guilt. Party is Auto-defection Act was tried to solve this problem.

Sixth, the system of contesting political issues is far from being democratic. High-spirited elections are not held regularly. First, the concept of free competition and all powers of the government are vested in the ruling class and a few party dignitaries. To the masses, the ruling class is a tradition remains well entrench in India. For example, the political values, the role of the traditional leader, the party system. Again, we live in a patriarchal society where the leader is the one who is supposed to lead and to top down the party executive matters. They are seeking to clump down a rule. Politicians all round has more importance than the party. Therefore, the party gets weakened in its Chairman. This is not getting a good feedback from partyworkers operating at various levels. Again, the power of leaders in the party should be boycotted.

Seventh, the party needs suggestions for the improvement of the party system in India.

The number of political parties participating in the processes of our elections should be restricted to five All-India parties.

The organisational matters of Indian political parties must be made democratic. This is necessary to regulate our party system on the basis of internal party democracy regular free

and fair elections, declaration of sources of party-funds, audit of accounts etc.

(d) Recognition should be granted only to those political parties which can muster a minimum percentage of votes. For all-India recognition, the percentage of votes secured should not be less than 10 percent of the previous election.

(e) The parties which are based on caste and religion should not be recognised and they should not be allowed to participate in elections.

(f) The disqualifying defectors must be debarred from holding any public office.

Q. 80. Discuss the nature and characteristics of the Pressure Groups in India.

Ans. In our liberal democracy the whole of the country is not absorbed within political parties. There are also several organised or informal organisations representing the varied interests of its citizens. They interact among themselves and with the Union and State Governments. The presence and concern of specific Pressure Groups magnify and supplement the role and purposes of the political parties. They are part of the wider social processes. In a modern democratic State like also ours, the Pressure Groups are often called the "invisible government" or the "unofficial Government".

When sovereignty lies by its democratic constitution in the affirmed as fundamental rights of its citizens (in the famous Article 19 dealing with Right to Freedom, the protection of freedom of speech and expression of assembly, association and movement).

It practising any profession or business, it literally and operationally sanctioned the development of a party system and pressure groups and also independent press and media. This was one of the greatest triumphs of the national movement, one of the most glorious bequests of the enlightened founding fathers of our Republic. The pressure groups in their origin, nature and work are conditioned by the structures of State and government, the pattern of the party and the political culture and attitudes of leaders and the people.

The pressure group may be defined as an organised aggregate

which seeks to influence the content of Governmental decisions without assemblage — places its members in formal governmental capacities — which would the pressure groups do not themselves want to form the Government, but try to — influence the decisions of the Government. Thus, every pressure group has three elements: (a) an organised group of people, (b) the common interests and (c) the influence on the decisions of the Government. In short, the pressure groups cause the legislators or ministers to legislate or act in a particular way by obtaining arguments, manipulating other techniques as he also may be.

It may be pointed out that the "pressure group" is a term applied to those interest groups — i.e. Trade Unions like the I.L.U., and the — I.L.U. which do not themselves directly undertake extra-constitutional methods (strikes and pickets) to pursue their goals. All pressure groups are interest groups, but all interest groups are not pressure groups. In fact, (business of a community and the army of a country need not be pressure groups. The term "interest group" is a neutral designation, but the term "pressure group" implies a particular political weight or persuasive and persuasive ability or influence. The pressure group has a designated interest.

From the above, the nature of pressure groups becomes quite clear. In brief, their characteristics are as follows: —

The objectives of the pressure groups are very limited. That is, each pressure group has its special interest which it seeks to promote or to oppose. The rank and file fight for their rights whereas the Kishan Sabha safeguard the interests of the farmers.

Under the national institutions determine and shape the activities of pressure groups and their main targets. In a representative democracy since the Union Cabinet and Civil Service are the main channels through which to get access to them. Therefore, to influence the bureaucrats and certain party leaders are more important for effective pressurising.

4. The central government greatly influences the pressure groups activities. In our multi-party system, the coalition

Swayamsevak Sangh (RSS), the Jammat-i-Islami, the Nadar Caste Association, the Scheduled Caste Federation etc.) The RSS is one of the most powerful pressure groups of all, with a membership of over one million.

(3) Associational pressure groups springing from the modern centres of society like industry, commerce and business, trade unions of workers and peasant organisations, journalism and legal profession, e.g. the *Federation of Indian Chambers of Commerce and Industry (FICCI)*, the *Indian National Trade Union Congress (INTUC)*, the *Bar Association of the Supreme Court and the High Courts* etc.,

(4) Institutional pressure groups catering to service organisations like civil service, police and defence services, educational and scientific personnel, e.g., the *Civil Service Association*, the *Scientists Workers Association*, the *All India Federation of University and College Teachers Association (AICTE)* etc.)

(4) Ad-hoc pressure groups created for specific temporary purposes like relief in times of water shortage, boundary adjustment problems between States, welfare of women, e.g. the *Narmada Bachao Committee*, the *Jawahar Matru Samithi* etc.

Nature and working of two major pressure groups in Indian democratic political system. The pressure groups have emerged powerfully in India after independence though they existed for a long time. Of these two powerful pressure groups currently working in Indian political system are (a) Business Pressure Groups and (b) Trade Unions.

Business Pressure Groups. India, as business generally and big business particularly have powerful pressure groups. With their vast outlay of resources, availability of technical and managerial personnel and due to close links with high groups in Government administration, opposition parties, newspapers and media, they have always had the most organised, powerful pressure groups at their command.

India's powerful business pressure groups include a vast number of commercial, industrial and managerial bodies their peak organisations however being the Federation of Indian Chamber of Commerce and Industry (FICCI) and the Associated

Chambers of Commerce and Industry (Assocham). Unlike the business associations in most countries of the world, the major apex business organisations in India combine both industrial and trade interests within a single organisation. The FICCI was constituted in 1927. Right from its inception, its major aim has been the protection and promotion of an heterogeneous trade and industry and elimination of foreign tariff barriers imposed on India. It has also a long growing reputation as the more powerful foreign business interests in the Indian market. Even now the FICCI is more protectionist in its attitude.

The FICCI representing over 1000 large firms employing over five million workers, controls a sizeable power, influence and wealth in the country. It is an organisation that can influence official decisions and shape economic policies. Its members enjoy a considerable voice in Government and other agencies. It has been instrumental in the FICCI's a long length pressure group along the working lines of its members organisations, both in regard of the manner of its activities and in the efficiency of operations. Further, the policies of the Federation of Indian Chambers of Commerce is dominated by big business houses like the Birlas, the Tatas, the Iyengars etc. which go to the length of electing their representatives in this apex organisation. It is also the only organisation a number of professional managers and executives with decision-making powers in their own right have been elected. Most of the leaders in the FICCI can trace their careers to the Prime Minister's cabinet and are in a position to exert the influence of the Secretary to seek a favourable policy of Government in a free competition among the business houses for the prize posts.

Another important business group is the Associated Chambers of Commerce and Industry (Assocham). It was originally set up as a body of industrial and commercial interests in India and the pre-eminence of its industrial power. Up to 1986 the Assocham had a limited representation comprising mainly of big manufacturing units with industrial connections. With the broadening of the scope of Indian Merchants Chamber and joining a sizeable number of FICCI members, the composition and

through AITU & CITU are also politically inclined and more often than not act as the agents of their parties.

The trade union movement in India has contributed to the sharpening of national awareness, class consciousness and a sense of international friendship and solidarity with struggling peoples everywhere for a more just equitable and better world. The trade unions have systematically worked for better conditions of living and working and also worked for adoption of positive labour laws in the Parliament and the State legislatures. They do not have the money power of the capital but they have the will and solidarity to work for the upliment of the down-trodden. The trade unions in India have been able to influence the Government and the management to provide for (1) improvement in living conditions of the workers, (2) adoption of social welfare benefits like employees insurance, medical and housing facilities, (3) periodic revision of wage structure to compensate for price increase, (4) better public sector jobs and profitable enterprises and (5) the recognition of the right to strike in press for their demands. However very recently the Supreme Court has ruled that the working people have no legal moral or political right to strike.

On the negative side trade unions in India have sometimes resorted to what Lenin calls 'economism' that is focusing on united economic gains of the workers at the expense of socio-economic developmental goals. In a country struggling to build a self-reliant infrastructure of industrial institutions in order to overcome the dependence on foreign capital, strikes, strikes, strikes and bandhs resorted to by the trade union leaders weaken, delay and disturb the national development process. In the name of class struggle, the trade unions sometimes overlook the vital national goals as well as across class divisions. Populist radicalism only leads to social and meaningless conflict. It in fact, delays the socio-economic transformation, which only can improve the conditions of the working people's lives. Hence, there is an obvious need for creative and constructive trade union activity for the welfare of the working class and the prosperity of the nation.

Thus the pressure groups in India, both business interests and

trade unions) provide a necessary link in the functioning of democratic and in extending the concept of representative responsible Government.

Q. 82 Discuss the role of the Pressure Groups in the Indian political system.

Ans. In India's liberal democratic political system, there are several organized groups concerning both formal and real national interests. They are called pressure groups or the private Government. That is the pressure groups (business interests and trade unions) do not themselves want to form the Government, but they wish to influence the decisions of the Government. The pressure groups are part of the wider political process and are conditioned by its political cultures, attitudes and beliefs of the people.

The pressure groups in India have not as yet gained legitimacy in the eyes of the political leadership. They are regarded as extra-constitutional and extra-systemic, rather than as genuine partners in policy-making. There are definite reasons for that. The Indian Government is committed to maintaining and strengthening the democratic norms. It is also committed to a programme of economic development and national unity. Thus the pressure groups are not doing what is an essential requirement of our democracy.

In this connection, we are to note that the political parties have certain interests whose strength can be measured in terms of votes and legislation. The pressure group (e.g. the FICCI) understands its role in public office. You do legislators identify themselves as representing any particular interest. This lack of identity makes it difficult to consider the argument type types of pressure groups as groups as apply. Besides, India is made up of 28 States and 7 union territories. In no two States are the same pressure groups equally influential. For example, the Trade Unions in Tamil Nadu are not effective and influential as their counterparts in West Bengal. Business interests are comparatively more powerful in Maharashtra and Gujarat, or the farm lobby in Haryana and Punjab. Again, there is no denying the fact that the influence of a pressure group depends on its size, cohesion,

contributions from the companies, which release advertisements for the party organs and souvenirs. And lastly, various regional political parties like TDP, DMK, AIADMK and Akali Dal have gained their political strength through powerful rich peasants support-structure and vote-banks (e.g. the Bharatiya Kisan Union).

(6) In the Indian political system, the pressure groups also play a vital role to mobilise public opinion. Due to the growth of the mass media (radio, press and propaganda, television etc.), it is now possible for the pressure groups to take their demands to the people. It is very essential for the bank unions, post and telegraph unions and water and electricity unions etc. to apprise people of the genuineness of their demands so that public opinion may not go against them when they have no option other than to have recourse to strike. The major pressure groups have their own papers and journals: Hindustani Times, Commerce Capital, Eastern Economist etc. which present their cases in style. Sometimes these pressure groups organise conferences and assemblies to influence public opinion and Government.

(7) The strategic importance of a pressure group in the social and economic life of a nation also goes a long way in determining its influence or prestige. It is, therefore, that doctors, engineers and bank employees have greater influence than defenceless teachers. Yet for a group to optimise its position, it is essential for it to perceive and exploit its strategic position, comprising the decision-makers to concede its demands.

There are critics who believe that the pressure groups like business (FICCI and Assocham) and labour (NLC, AITUC and CITU) have been so dependent upon Governmental benevolence and so vulnerable to its administrative actions that they have generally been hesitant to pressure too extensively or to question its policies. Under these circumstances, the pressure groups in India have come to play at best a circumspect negative

role in the decision-making process. Again, the pressure groups are no doubt essential to the successful functioning of our democratic political system. But they do not operate with due considerations for the larger interests of the society. They can

contribute to the deterioration of democracy. For example, strikes by trade unions threaten production; refusal of peasants to pay taxes affects Government's revenue; riots by students and other unruly sections endanger the public order without which the country's development is not possible. All these actions of the pressure groups are in no way, in the interest of the nation.

Therefore, the policy-makers in India should encourage only those pressure groups which fulfil certain sets of conditions compatible with a society governed with economic development, national unity and maintenance of democratic institutions and practices. It should also be their endeavour to harmonise various pressure groups on the basis of national unity and security. They should refrain from following a policy which perpetuates communal divisions and interests.

14 LOCAL SELF-GOVERNMENT IN WEST BENGAL

Q. 88 Describe the composition and functions of the Gram Panchayat, in West Bengal.

Ans. The principle of democratic representation is an essential feature of self-government. We, the people of West Bengal, have accepted the democratic decentralisation through the Panchayat Raj system in order to build up a democratic structure from the grass-roots. Mahatma Gandhi is rightly recognised that independence would have no significance without rural upliftment. The Commission of Enquiry has laid down a guideline that the States shall take steps to organise Village Panchayats.

In accordance with the direction of the National Development Council, the Government of West Bengal has promulgated the Panchayat Act (1950) and the Panchayat Rules (1951) and (1952) with a view to establishing self-help and self-reliance in the village. Block and district level are investing powers with such powers and authority as may be necessary to enable them to function as units of self-governance. However, the State legislature has amended the West Bengal Panchayat Act, 1950 in 1953 to cope with the provision of the Panchayat Extension (Amendment) Act passed in the Parliament. It is necessary to make better provision for rural administration, community development as self-sufficient autonomous village units. In West Bengal, there is a series of village level self-governing bodies from the Village Panchayat to Gram Panchayat, Panchayat Samiti and Zilla Parishad. All these levels are organically linked up.

Composition In West Bengal, the Gram Panchayat is the lowest tier of the Panchayat Raj system. Its general body is called the Gram Sabha. The Gram Sabha consists of persons enrolled in electoral rolls of Legislative Assembly of West Bengal relating to any portion of part of a village comprising not less than 100 thousand of people.

The Gram Panchayat is the executive Committee of the Gram Sabha. Under the Panchayat Act, all elections of the members to the Gram Panchayat are conducted by the State Election Commission appointed by the Government of West Bengal. The members of the Gram Panchayat come from five wards. The Gram Panchayat is elected by the voters of the area. According to the Panchayat Act, provision for reservation of seats for Scheduled Caste and Scheduled Tribes and Scheduled Caste and Scheduled Tribes population of the Gram Sabha area concerned.

The Gram Panchayat is headed by a U. P. Pradhan to be elected by the voters of the Gram Sabha. The U. P. Pradhan is elected by the voters of the Gram Sabha. The U. P. Pradhan is elected by the voters of the Gram Sabha. The U. P. Pradhan is elected by the voters of the Gram Sabha.

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Functions The main functions and duties of the Gram Panchayat are as follows:

- (1) Maintenance of law and order in the village.
- (2) Agriculture and Government land management.
- (3) Minor irrigation.
- (4) Construction and maintenance of Village roads.
- (5) Conservancy and sanitation.
- (6) Lighting of streets.
- (7) Supply of drinking water.
- (8) Housing and burial grounds.
- (9) Maintenance of the gardens and playgrounds.
- (10) Prevention of infectious diseases.
- (11) Mobilisation of relief in natural calamities.
- (12) Promotion of cottage and Village industries.
- (13) Agricultural and industrial extension.
- (14) Rural electrification.
- (15) Planting of trees.
- (16) Primary, secondary and technical education.
- (17) Control of public buildings.

- (19) Registration of births and deaths.
- (20) Implementation of women and child welfare programmes.
- (21) Social welfare of the Scheduled castes, tribes and also the handicapped.
- (22) Procurement and distribution of seeds and financial help to the cultivators.
- (23) Public distribution system.
- (24) Preparation of annual plans and budget of the area, etc. etc.

Revenue and Expenditure The sources of revenue of the Gram Panchayat are— (a) Contribution and grants made by the Central and State Governments, (b) Contribution and grants made by the Panchayat Samiti and Zila Parishad, (c) Loans granted by the Central or State Governments, (d) All receipts in account of taxes, rates, fees levied by it, (e) All sums received as gift or contribution, (f) Share of land revenue and land duty.

Every Gram Panchayat spends its money annually as to meet the cost of its own administration including the payment of salaries and allowances to its employees as well as the purchase of furniture and stationery articles and also to meet the charges of electricity, posts and telegraphs etc.

The formation and functioning of the Gram Panchayat under our Panchayat Act have aroused the interest of the people of West Bengal through their participation in popular bodies at the Village level. It has also fostered a political education among the rural people. This is the reason that the Government of West Bengal has already established more than 3,400 Gram Panchayats in the Village areas of the State.

Q 84 Describe the composition and functions of the Panchayat Samiti and Zila Parishad under the West Bengal Panchayat Act of 1993.

Ans The West Bengal Panchayat Act of 1993 provides for a three-tier Gram Panchayat, Panchayat Samiti and Zila Parishad Panchayat Raj system in the Village areas of our State. Its object is to make better provision for rural administration, reconstruction and development as self-sufficient autonomous units.

Panchayat Samiti—Composition and Functions

In West Bengal, the Panchayat Samiti is the intermediate tier created to serve as a link between the Gram Panchayat and the Zila Parishad. It functions at the block level because the Panchayat Act has said that there must be a Panchayat Samiti in each developmental block. There are 428 Panchayat Samitis in different block areas of West Bengal.

Composition According to the provisions of the West Bengal Panchayat Act, 1993, the elections to the members of the Panchayat Samiti are conducted by the State Election Commission. The Panchayat Samiti consists of the following types of members—

(a) Members of all Gram Panchayats within the Block as ex-officio.

(b) Three Members elected by the electors from each Gram Panchayat area within the block.

Members of the Lok Sabha and the State Legislative Assembly of the State elected from an constituency comprising the block,

(d) One-third of the total seats to be reserved for women (to be ascertained) reserved for the Scheduled Castes and the Scheduled Tribes in proportion to the number of the population in the block area.

The members of the Panchayat Samiti hold office for a period of 5 years. Every Panchayat Samiti elects a President, one of its members to be Chairman and another member to be Vice-Chairman. Their term of office is 5 years. Lastly the Block Development Officer (BDO) is the ex-officio Executive Officer of the Panchayat Samiti. He exercises general control over officers and employees of the Panchayat Samiti.

Functions A Panchayat Samiti exercises its functions through several standing committees namely (a) Finance, (b) Public Health, (c) Agriculture and Irrigation and Education, and (d) Cottage Industries.

A Panchayat Samiti has the power to— (a) Undertake schemes to adopt measures, including the giving of financial assistance

relating to development of agriculture, livestock, cottage industries, rural credit, co-operative movement, water supply, irrigation, public health, sanitation, primary and secondary education etc.

(b) Undertake or execute of any scheme, management of any institution in public interest,

(c) manage or maintain any work of public utility,

(d) make grants (financial) to the Zila Parishad or the Gram Panchayat.

(e) contribute sums (money) towards the cost of water supply.

(f) adopt measures for the relief of distress,

(g) co-ordinate and integrate the development plans.

(h) examine and sanction the budget estimates of Gram Panchayats falling within its area.

(i) undertake or execute any scheme if it extends to more than one Gram.

(j) prepare its own budget and submit it to the Zila Parishad for approval,

(k) acquire, hold and dispose of property and enter into contracts.

(l) control flood and droughts,

(m) implement poverty alleviation programmes.

(n) promote rural artisan and vocational training,

(o) promote rural electrification, co-operation and family welfare programmes etc.

The sources of revenue of the panchayat Samitis are:

(1) Contributions and grants made by the Central or the State Government. (2) contributions and grants made by the Zila Parishad. (3) loans granted by the Central or State Government.

(4) all receipts on account of tolls, rates and fees levied by it.

(5) all incomes from any land owned in favour of the Panchayat Samiti.

(6) such fines, penalties imposed and realised under provisions of the Panchayat Act. Besides, a Panchayat Samiti may levy tolls on person and levy.

Zila Parishad—Composition and Functions The Zila Parishad is the highest tier of the Panchayat Raj system as set up under the West Bengal Panchayat Act of 1973 (as amended in 1974).

There is a Zila Parishad in each district exercising such powers as are assigned to a Municipality or a Municipal Corporation. There are twenty six Zila Parishads in the plain districts of the state of West Bengal.

Under the West Bengal Panchayat Act of 1973 (as amended in 1974) and the provisions of the Constitution (Seventy-third Amendment Act, 1992) the superintendence, direction and control over the preparation of the electoral rolls for and conduct of all elections to the Zila Parishad are vested in a State Election Commission constituted by the Government of West Bengal.

The Zila Parishad is comprised of the following categories of members:

(a) the Chairman of the Panchayat Samiti within the district.

(b) two members are elected from the wards constituting constituencies constituted in the district in the manner as in the Lok Sabha and the Legislative Assembly of the State are district constituencies of being Members of Parliament. Members of the Karmabhita not being Members having a party interest in the district or constituency of an individual are reserved for women. All seats are also reserved for Scheduled Caste and Scheduled Tribes in proportion to the number of population of the district concerned. Besides, the District Magistrate is the Joint Executive Officer of the Zila Parishad.

As per the Panchayat Act, the Zila Parishad is constituted for a period of five years. The Zila Parishad has a Chairman and Vice-Chairman to be elected at its meetings. They are elected by the members elected members from amongst them. All the members have the right to vote whether or not chosen by direct election in the meetings of the Zila Parishad.

The Zila Parishad meets once in a month. It works the high schools, Government High Schools, Junior Planning, Junior Public Health and Education, and the Agriculture and Irrigation etc.

Functions The West Bengal Panchayat Act assigns to the Zila Parishad some major functions noted below:

(1) Development of agriculture, industries, co-operative movement, rural credit, public health, sanitation, technical and

non-formal education, social welfare. (4) Under the schemes or adopt measures for any work of public utility. (5) Management of any institution. (6) Make plans and to any educational institution public library etc. (7) Maintenance of godowns and rice storages. (8) Watershed development programmes. (9) Road Parks and gardens. (10) Marketing/Control of agricultural products. (11) Breeding animals like cows and pigs. (12) Further development programmes. (13) Popularising town and housing. (14) Implementation of poverty alleviation programmes. (15) Control of air outbreaks. (16) Social welfare including the welfare of the handicapped and mentally retarded. (17) Maintenance of Community assets. (18) Non-conventional energy sources etc.

The sources of revenue of the Zilla Parishad are: (a) rent from land or other properties. (b) sales revenue such as of commodities. (c) grants and loans made by the State Government. (d) any possession of land. (e) revenue tax on motor vehicles, tax on taxies, deposits. (f) water, air and lighting etc. (g) some income from public ferries and fisheries etc.

The Zilla Parishad Fund is applicable to the payment of interest upon loans, allowances to the Chairman and the Vice-Chairman, salaries of its officers and employees, purchase of furniture and stationery articles and an incidental charges incurred by the Zilla Parishad.

Q. 85 Explain the composition and functions of the Municipalities in West Bengal.

Any local self-governing institution occupies an important position in the democratic setup of West Bengal. They arouse the social and political consciousness of the people of the local government areas. In our State, the local self-governing institutions are of two types—in urban and (b) rural Municipalities and Municipal Corporations fall under the category of urban self-government.

Municipalities exist in the small towns of West Bengal. They were constituted and regulated under the Bengal Municipal Act of 1932, also amended several times after independence. But this Act was defective for obvious reasons. Hence in accordance with the provisions of the Constitution (Seventy-fourth)

Amendment Act of 1992 the State Legislature of West Bengal has enacted the West Bengal Municipality Act, 1993, by replacing the old Act. Its object is to make better provision for municipal administration, reconstruction and development as self-sufficient autonomous urban units.

Under the West Bengal Municipality Act, 1994, the superintending, direction and control of the preparation of the revenue rolls for and conduct of all elections to the Municipalities are vested in a State Election Commission constituted by the Government of West Bengal. The size of a municipality varies from town to town depending on the population of the area. The electorate and constituency of a municipality is called the municipal ward. The members of the board are known as the councillors. Broadly speaking a municipal board consists of not more than 30 councillors and not less than 9 Councillors. A municipality is divided into several wards and the members elected in each of the ward form the ward seats are reserved for women, seats are also reserved for the Scheduled caste and Scheduled Tribes in proportion to the number of population of the area. The Councillors are elected by the electors. A vote of age qualification of the voters is the basis of universal adult franchise. At present there are 26 municipalities in the small towns of our State.

At its first meeting, the council elects one Chairman and one Vice Chairman from amongst them to be presided at its meetings. The council consists including the Chairman and the Vice Chairman, and office for 3 years. But a municipal board may be superseded by the Government of West Bengal on grounds of incapacity of its Councillors or on any reasonable grounds.

A main feature of the organisation of the municipal board under the present Act is the Chairman-in-Council. The Chairman, the Vice Chairman and seven elected Councillors (nominated by the Chairman) constitute the Chairman-in-Council. This council is responsible to the Municipal Board of Councillors for all works and activities.

Functions The Board of Councillors of a municipality

formulates the policies and programmes of administration. They are carried out as the permanent officials of the municipality. The functions and responsibilities of the municipal board are very wide. They include—

- (a) regulation of land-use and construction of buildings
- (b) planning for economic and social development
- (c) roads and bridges
- (d) water supply for domestic, industrial and commercial purposes
- (e) public health, sanitation and conservancy
- (f) the services
- (g) urban forestry and protection of the environment
- (h) safeguarding the interests of the handicapped and mentally retarded
- (i) slum improvement, (j) urban poverty alleviation
- (k) urban amenities such as parks, gardens and playgrounds
- (l) promotion of cultural and aesthetic aspect
- (m) burial grounds and crematoriums
- (n) cattle ponds
- (o) regulation of slaughter houses and dairies etc.

A Municipality requires a large sum of money to perform its business properly. It raises revenue from various sources.

- (a) tax on house and land
- (b) property taxes including water and conservancy taxes,
- (c) tax on lighting,
- (d) tax on vehicles, boats and animals
- (e) octroi duty
- (f) tax on trades and professions
- (g) tolls on ferries and bridges
- (h) tax on domestic cattle
- (i) rent from municipal markets. Besides it gets financial assistance annually from the Government of West Bengal.

The fund the municipality is applicable to the payment of interest upon loans, allowances to the Chairman, the Vice-Chairman and the Councillors, salaries of its officers and employees, purchase of furniture and stationery articles and all incidental charges incurred by the municipality.

Q 86. Describe the composition and functions of the Calcutta (Kolkata) Municipal Corporation.

Ans. Local self-governing institutions play an important role in the democratic Governments of the constituent States of the Indian Union. They arouse the social and political consciousness of the people of the locality of the urban self-governments. The corporation exercises more powers and enjoys greater autonomy than a municipality.

Composition Like Mumbai and Chennai, Kolkata also has municipal corporation. Look after the development of the city. The corporation of Kolkata has been constituted and regulated by the Kolkata Municipal Corporation Act of 1986. However this Act has been amended in its structure and functions in accordance with the provisions of the Constitution Seventy-fourth Amendment Act, 1992.

It prescribes the superintendence, direction and control of the preparation of an electoral rolls for and conduct of all elections to the Council of the Kolkata Municipal Corporation are vested in a State Election Commission constituted by the Government of West Bengal.

The strength of the Corporation of Kolkata consists of 143 members (113 women). The city of Kolkata and its added areas have been divided into 14 wards. One councillor is elected from each ward. The election of members of elected councillors of the Corporation is by ballot. Of this, one-third seats are reserved for women. Seats are also reserved as the Scheduled Caste and Scheduled tribes in proportion to the total population of the ward. The Candidates are elected directly by the citizens of 18 years of age or above on the basis of universal adult suffrage. Again the Government of Kolkata implement a new rule the Chief Executive Officer of the Kolkata Metropolitan Development Authority (KMDA) as an ex-officio members of the Council of the Kolkata Municipal Corporation. The term of office of the Corporation is for 5 years.

The Council elects one Chairman of the Corporation from amongst them. He is elected for five (5) years. The Chairman presides over the meetings of the Council and maintains discipline and order in it. He interprets rules and controls debates.

A main feature of the present Act is the organisation of the Mayor's Council. The Council elects the Mayor and the Deputy Mayor for a single term. The Mayor's Council consists of Mayor, the Deputy Mayor and other members to be nominated by the Mayor from amongst the elected Councillors. The term of Mayor's Council is five (5) years. The office of the

Mayor carries high dignity and prestige. He is the first citizen of Kolkata. The Mayoral Council is popularly known as the Council of Ministers of the City Government of Kolkata. The Mayoral Council is responsible to the Corporation for its works and revenues.

The Kolkata Corporation has a Chief Commissioner. He is appointed by the Government of West Bengal in consultation with the Mayoral Council. He supervises the day to day affairs of the Corporation on behalf of the State Government.

Functions: The Kolkata Municipal Corporation works the following standing committees, viz., (a) Finance, (b) Education, (c) Public Health, (d) Water supply, & Town planning. Besides, the Corporation has two other committees known as the Estimates Committee and Accounts Committee.

The Council of the Kolkata Municipal Corporation formulates the basic principles and takes decisions on all important matters and they are carried out by the permanent officials of the Corporation. The functions and responsibilities include—
 (a) construction of roads and bridges, (b) supply of stored and filtered water, (c) arrangements for lighting streets, (d) sanitary measures to keep roads and streets clean, (e) establishment and maintenance of schools for primary education, (f) registration of births and deaths, (g) regulation of slaughter houses and abattoirs, (h) public amenities including parking lots, bus stops and public conveniences, (i) burial and burial grounds, cremation grounds and electric crematoriums, (j) urban poverty alleviation, (k) provision of urban amenities and facilities such as parks, gardens, playgrounds, (l) planning for economic and social developments and fire services, (m) urban forestry and promotion of ecological aspects, (n) slum improvement and upgradation, (o) safeguarding the interests of the weaker sections of the society including the handicapped and mentally retarded, (p) cattle pounds and prevention of cruelty to animals, (q) examine and approve plans for construction of buildings etc.

Revenue and Expenditure: The main sources of the revenue of the Kolkata Municipal Corporation Kolkata are as follows:

(a) taxes on house and property, (b) water and lighting rates

(c) dues to traders and professions, (d) dues on vehicles and animals, (e) tax on duty, (f) a part of the motor vehicle tax, (g) rent from municipal property such as market etc. Besides, the Kolkata Corporation receives annual financial aid from the Government of West Bengal. It can also raise revenue with the approval of the State Government.

A large portion of the revenue of the Kolkata Municipal Corporation is spent on the payment of salaries and allowances to its employees. The remaining amount is spent for public utility services like education, medical relief, public amenities, public works including roads.

15

MAJOR ISSUES IN INDIAN POLITICS

Q. 87 Discuss the role of caste in contemporary Indian Politics.

Or

"Caste uses Politics and Politics uses Caste" - Comment.

Or

Examine the effects of Casteism on India's political system.

Ans. The most persistent unit of social organisation in India is the Caste system. It is "caste" that distinguishes Indian Society from its counterparts elsewhere. A caste has been defined as a hereditary endogamous, usually married group, having a traditional association with an occupation and a particular position in the local hierarchy of castes.

The base of Indian social structure is the caste (varna) and sub-caste (jati). The caste system is alien to India for the Hindu Social have complained about 80 per cent of the Indian population. At present, there exists in Indian society since the caste and sub-caste. As American has said that the caste system is not merely a division of labour, it is a division of ownership. For example, in some regions of the country the Brahmins have made the Shudras as their subordinates through forced labour, purchase of land, untouchability and discrimination in service in the name of Sanskritisation. The basic features of Indian casteism are hierarchy, endogamy, occupational association and isolation in custom, caste organisations and caste mobility.

In the free India, casteism has been a significant and decisive factor in the socio-political fields. Modernisation has sharpened numerous social identities. After Independence three important changes have taken place in the social sub-structure of India. First, the legal outlawing of untouchability, great emphasis on equal protection of laws. And these changes have had substantial effects on rural casteism.

This caste is a significant element in Indian Society under the impact of modern politics. It is a new phenomenon. And in the past few decades the occupations of the caste and the democratic electoral process has changed the nature of the political culture in India, imparting to its existing plurality a political dimension. As it is said by Rajni Kothari, caste has been polarised by the process of mass political and political processes and symbols of political organisation. So it is not that politics uses caste at the same time and also uses politics. P. J. Rudolph quotes Wilson, the great chief of political democracy, who claims a central theme of a democracy is even while adapting itself to the values and methods of representative politics. Indeed, it is the adaptation of the details by which the Indian has been attracted to the democracy of representative politics. In that sense, the caste in India, the top leaders may proclaim the goal of a classless society but are merely conscious that masses know only the language of caste. The caste which so deeply runs through caste. Again, the Brahmins have an old and still caste in the most important political field in India. And especially for political symbols on the basis of caste have dramatically increased over the years.

Since Independence caste has been playing an increasingly important role in the political activities, even in the political appointments, party formations etc. While the four-fold division of Hindu society into Brahmins, Kshatriyas and Shudras is too gross and theoretical, the ranking of the caste system is really the special system of India which is a basic collection of castes, jatis and not so much of a social class. When we refer to the dominant caste in a village, a group of castes, we really talk about jatis. In many regions there are so-called backward castes and middle castes which are prominent in dominance in society and policy. In some cases, even the upper and the dominant castes sometimes with one or two backward castes, the caste groupings get a localised association and tend to survive for political gain. Candidates for election are selected on caste considerations and they are pressurised to vote on caste lines. For example the caste of a candidate in Assam's Garo district is understood without

an independent of the triangular fight among the Kshatriyas, Kshatriyas and Vaisnavas. In Bihar the Thakurs, Brahmins, Yadavs and the backward castes are involved in struggle for power. In democratic political system of India, these castes are using political opportunities to retain their traditional hold and power.

India's political structure and processes are democratic but its social base, particularly in the vast rural areas, is rather tribal and casteist. This pre-democratic sociological base affects the working of our democratic politics. Democratic activities—like fundamental rights relating to free speech, expression and association, participation in the electoral system, formation of parties, free media and press and even legislative forums etc.—are misused for maintaining casteist identity. This is possible because while the form of Indian politics is secular its style is essentially casteist. Some caste leaders play a different game—they want modernisation of their own tradition, yet they would like to keep their separate caste identity as well. This helps them and their caste to become a modernised interest group.

To minimise the negative impact of casteism on India's political system is—

(a) that it violates the basic principles enshrined in the Constitution for promoting a new 'inter-caste' polity—namely the principles of justice, equality and above all fraternity assuring the unity and integrity of the nation.

(b) that it has polarised the castes as a divisive factor counterpoising one caste or a group of castes against the rest.

(c) that it has vitiated the atmosphere of elections by promoting the pre-democratic ascriptive identities, promoting narrow loyalties thus weakening the modernisation of polity.

(d) that by building caste associations, pressure groups andlobbies, it seeks to retain mutilated and outmoded caste conservatism in national and State politics, which is an impediment to building up a secular society.

(e) that it adversely affects the grass roots Panchayat Raj System, by seeking to retain the traditional mould of dominant and dominated castes and thus frustrate the emergence of the

new democratic culture of free and equal citizenship irrespective of caste, creed or birth.

(f) that it creates tension, suspicion, fear and an atmosphere of violence, by building militancy on caste lines.

(g) that in party politics and in minority formations, its (casteism) role contributes to avoidable bickerings, narrow bargainings and jockeying for power, which does lead to political instability and confusion.

(h) that the caste-based reservation is an impediment to progress and social change by making the beneficiaries a community of incompetent and inferior people.

(i) that casteism weakens the working and stability of our democratic system, electoral system and militates against the basic principles governing our nation life and providing meaning to our own identity. It is tearing apart the rich and slowly but the capacity of a nation. Unity, political unity, unity have been recurrent and the existing members of caste as ages up the country. This should stop if India is to emerge as a democratic secular polity. Following are the solutions to all this malady—

(a) Political parties based on casteism must be eliminated.

(b) All the democratic and secular political parties should be determined, not to encourage casteism.

(c) Caste based groups of or organised for the names of all educational institutions should be closed in the name of caste.

(d) All the papers and magazines promoting casteism should be banned.

(e) It is not that the casteism that for the depressed classes is a good in the long run. Hence caste privileges by the Government or as a State should be restricted to a great extent.

Q 88 What is meant by "Religion" in India? Discuss the impact of Religion on India's political system.

(12)

Discuss the role of secularism in the politics of contemporary India.

Ans. The word "religion" signifies the philosophical beliefs of a religious sect. It lays down a set of ethical rules for its

followers to accept, it might prescribe ritual and observances, ceremonies and stories of worship which are regarded as integral parts of religion and these forms and observances might extend even to matters of food and dress. Religion also implies the ritual to be followed in a religious institution. In India the Supreme Court has held that religion is not necessarily those things are well-known religions in India like Hinduism and Jainism, which do not believe in the existence of God or of any intelligent first cause. A religion may consist in a system of beliefs and practices which are regarded by those who profess that religion to be conducive to their spiritual well-being. A religion is not merely an opinion, doctrine or belief. It has its outward expression as well. Again, "religion" is a matter of faith but belief in God is not essential to constitute religion. Doubtless of can be religion constitute its essential part, but the doubt is whether it is to constitute them. What constituted an integral and essential part of a religion has to be determined with reference to its character, place, history, traditions, customs, dogmas etc. of the particular religion. For example, The "Ananda Marg" has been held to be a religion. It has the right to perform religious duties in public places. The Ananda Marg is not the essence of a religion. It is the means by which one Ananda Marg is founded. It is not a representative body. Inside this community it is not a caste. It is not a sect. It is not a group of people. It is not a group of people. It is not a group of people. It is not a group of people.

Belongs to the Sovereign Democratic Republic of India. It is protected under Article 191 of the Constitution of India. The State does not take any responsibility for giving protection, peace and security or giving justice, work or employment or in imposing taxes.

In the Constituent Assembly the Fundamental rights of a Republican Constitution have a great stress on the liberty of conscience and religious communities have a great aspect for the pursuit of truth. For example, Government does not interfere with every man and woman has an freedom and religious honour and every person has a right to his own equal liberty and opportunity in religious matters. There is freedom of conscience even for those who have no religion and free play for all religious subjects.

to and under the law each area of the basic conception of our State. It may be noted that though forests constitute a very large majority of India's area—about 60 per cent of the State for example—almost no reference is made to matters like the plough, the machinery or a uniform code throughout the Indian territory.

2. **F** Other major world religions, namely Hinduism, the Haudh, M, share a common belief in the Buddha, the god, the Jews and the Parsis. Some of them, however, subscribe to varied pagan beliefs as well.

[illegible]

The Indian National Congress's popular votes in the thirteenth Lok Sabha (parliamentary elections) in 1990 dropped below 50 per cent in every election (1952-49% ; 1967-49% ; 1971-31% ; 1980-19% ; 1985-19% and 1990-20% . 2001-13 seats) has nevertheless won more than the percentage of votes of any other party. The capacity of the Indian National Congress to attract popular electoral support and obtaining a majority of seats in the Lok Sabha (except in 1977-1980, 1985-1990, 1991-1994) at the Centre has given it the character not only of a dominant party in the multi-party situation in a quasi-parliamentary democracy, but has also made the Congress the core and the All-India party in terms of its territorial spread, electoral appeal and political affiliations. All other parties are at best, as of now, trans-regional and multi-State parties in sub-State and regional parties and despite some of their claiming to be All-India in name and ambition.

The Indian National Congress has always been either in power or has been the largest opposition party in Parliament in 1947-1980, 1980-1990. It has always had broader support in most States of the Indian Union than any other party. The Indian National Congress has always been a force in a party representing almost every shade of opinions. For a hundred years now the Indian National Congress has remained the main political organisation of the Indian people. Its achievements and its strengths and weakness and its triumphs in glory and tragedies have all been an integral part of the Indian political scene.

Q. 73. Discuss the ideology and propagandies of the Bharatiya Janata Party (B.J.P.)

Ans. The Bharatiya Janata Party (B.J.P.) established on December, 1980 is a new and modified version of the Bharatiya Jana Sangh and was founded in October 1980. The B.J.P. has points of continuity with the Jana Sangh as its discipline and well-knit organisational set up and in its linkage with the traditional Hindu socio-cultural organisations—Rashtriya Swayamsevak Sangh (R.S.S.) and the Vishwa Hindu Parishad (V.H.P.). With certain variations in its political perspective and policy orientation, the B.J.P. was close to unity with the erstwhile Jana Sangh.

The Ishwariya Janata Party like its predecessor the Jana Sangh has a strong Hindu support base in the Hindi belt especially

amongst small and medium traders and shopkeepers in the urban and semi-urban areas, among the traditional business community in Varanasi and Allahabad, among the masses allied to the traditional sector of industry but also among the middle level professional and service personnel. Since 1980 it has extended its support to workers in South India, particularly in Kerala, Karnataka and Andhra Pradesh. After 1989, the B.J.P. has also started its influence in Madhya Pradesh, Rajasthan, Gujarat and Delhi.

The policies and propagandies of the Bharatiya Janata Party are as follows:

(1) *Political*—(a) to promote clean public life by evolving effective measures to break the nexus between the corrupt politicians and businessmen; (b) to strengthen the institution of Lok Pal and Lokayukta commissions; (c) to have a five-year term for all elected bodies (e.g. the Lok Sabha and the Vidhan Sabhas); and (d) to introduce thoroughgoing electoral, judicial and administrative reforms in the country.

(2) *Economic*—(a) to give the States a larger share of Central resources and devolve their financial powers; (b) to earmark 10 per cent of the plan funds for public investments in agriculture, rural development, irrigation, etc.; (c) to adopt a National Water Policy to ensure an effective and peaceful settlement of water disputes between the States; and (d) to continue reforms process to end the increasing unemployment.

(3) *Social*—(a) to guarantee to all minorities—linguistic and religious—peace and security and full opportunity for progress and development; (b) to widen the scope of the present Minority Commission; (c) to provide a set of social services for the speedy development of rural folk; (d) to take strong action against caste-discriminating communalism and religious fundamentalism; and (e) to support equal legal rights for women of all communities, abolition of child labour and introduction of compulsory primary education.

(4) *Foreign Policy*—(a) to work towards re-empowering dynamism in the multi-aligned world; (b) to work sincerely towards strengthening the morale of the defence forces; (c) to pursue a policy of peace, friendship and co-operation with the neighbouring countries; (d) to strengthen SAARC and establish a regional

important changes have taken place in the social sector—extension of adult franchise, legal enforcement of untouchability, growth of strong, on equal participation of lines. And these changes have had substantial effect on the rural tribesmen. This tribe is a significant component in Indian society under the impact of modern politics. It has taken new dimensions. And in the past five decades, the combination of the tribe and the democratic service process has changed the nature of the political culture in India, imparting to its existing plurality a political dimension. It has introduced to Indian politics processes and symbols of political tribalism. Our top leaders may perhaps the goal of tribeless society over the newly franchised rural masses know only the language of tribalised politics which so largely turns about tribe. And depends for political support on the basis of tribe have definitely increased over the years.

Since independence, tribe has been playing a steadily important role in all political activities carried out at local, regional, state, and national levels. While we are in the dominant tribe is a village, region or State, or at the national level the upper tribes. In many regions, there are all the members of tribes and non-tribe tribes co-exist in conditions of social and economic unity. In some other regions, the upper tribes are also dominant tribes, sometimes with more of non-tribe tribes. The tribe is always getting a chance to assert their political existence for political gains. Candidates for election often are selected on tribal, considerations and voters are persuaded to vote on tribal lines. For example, the electoral politics in the north-east regions cannot be understood without an insight into the role of Nagas, Kukis, Meis, Ahasis and Jaintias in Assam; number of political parties also is formed on the basis of tribal politics. The Mizoram National Front, the Hkakhaed Maw, the Manipal People's Party, the Jaintia League etc. are tribal parties as rural means of building a tribal political role. In democratic India, these tribes are using political opportunities to retain their traditional hold and power.

* India's political structure and processes are democratic. The social base particularly in the village and rural is tribalised. The

in defining the sociological base of the working of democratic politics. Demos, the foundation-like fundamental rights relating to free speech, expression and association, participation in the electoral system, formation of parties, free media and press and executive-legislative relations are insured for tribal identity. Some tribal leaders play a differential game—they want made misuse of their own traditions, yet they want the to keep their separate tribal identity as well. This helps them and their tribe to become a modernised group.

To summarise, the negative impact of tribalism on India's political system is

1. that it creates the same tribalism embedded in our institutions for regarding a new political society merely the principle of tribal competition, not the all humanity running the unity and integrity of the nation.

2. that it has treated the tribes as a divisive factor, and ignoring the role of a group of tribes against the rest.

3. that it has created the atmosphere of distrust by projecting the tribalism in regional politics, in the life of the new population, thus weakening the modernisation of polity.

4. that it has created a tribalised atmosphere among the groups and individuals in the society, thus making tribalism the dominant factor in the social and political life, which is an impediment to building up a secular society.

5. that it has created an atmosphere of distrust among the Panchayat Raj, the village level and the administrative mould of dominant tribes and non-tribe tribes, thus making the emergence of the new democratic political system and the modernisation of the tribal creed as a

6. that it has created an atmosphere of violence, by building tribalism on tribal lines.

7. that it has created an atmosphere of tribalism (tribalism)

8. that it has created an atmosphere of tribalism, narrow bargaining, and

9. that it has created an atmosphere of tribalism, narrow bargaining, and

10. that it has created an atmosphere of tribalism, narrow bargaining, and

11. that it has created an atmosphere of tribalism, narrow bargaining, and

12. that it has created an atmosphere of tribalism, narrow bargaining, and

receiving grant from state funds, to any citizen on ground of caste or sex. No person belonging to the backward class can be prevented from entering shops, places of public entertainments or temples, or using public wells and tanks.

Besides, after making attempts at national level through two Backward classes Commissions popularly known as Kalelkar Commission and Majumdar Commission, the job of identification of Other Backward Classes has been assigned to the States.

The First Backward Classes Commission was set up in January, 1953, and it submitted its report in March, 1955. Its recommendations were fairly wide-ranging, but the Commission could not present "a unanimous report" Moreover it had not worked out objective tests and criteria for the proper classification of socially and educationally backward classes. And the said Report was not implemented by the Central Government.

The Second Backward Classes Commission headed by Mr. B. P. Mandal was appointed by the President of India in January, 1979, and the Commission submitted its report in December, 1980. The Mandal Commission in its Report said that as the population of other backward classes is at least 10 per cent of country's total population, at least 10 per cent of all posts under the Central Government should be reserved for them. As its provisions may go against the law laid down by the Supreme Court judgments, wherein it has been held that a quantum of reservation should be below 10 per cent in view of this the proposed reservation for other backward classes will have to be pegged at a figure which when added to the 10 per cent of Scheduled Castes and Scheduled Tribes, will not be more than 20 per cent. In view of this legal constraint the Mandal Commission is obliged to recommend a reservation of 27 per cent for them.

Though their population is almost twice this figure. Again, the reserved quota extending in five should be carried forward for a period of three years and re-reserved thereafter. Relaxation for the upper age limit 3 years for direct recruitment should be extended to the candidates of other Backward classes. Besides a roster system for each category of posts should be adopted by the concerned in the same manner as is presently

done in respect of Scheduled Castes and Tribes candidates. Further seats should be reserved for students of Other Backward Classes in all scientific, technical and professional institutions run by the centre as well as the State Governments. The quantum of reservation should be same as in the government services, i.e. 27 per cent. And lastly, separate financial institutions for providing financial and technical assistance should be established for other Backward classes. The Union Government has accepted the decision of Mandal Commission's recommendations concerning reservation and has also added a demand in August, 1980 to reserve 27 per cent of the vacancies in civil posts and services under the Union and States public sector undertakings, nationalised banks, the universities and affiliated Colleges.

After all, in accordance with the decisions of the Supreme Court, the Central Government has formed a Committee and accepted its recommendations in 1983 on the following matters: (a) to form and update the list of persons belonging to Other Backward Classes (b) to fix the right to reservation the reservation of 27 per cent is to be shared among the backward communities (c) the committee included the former Presidents and the Vice-presidents of the bodies of the higher educational and (d) to confine reservation to the posts of entry into a service and not to be extended to promotional posts.

We are aware that in reservation of appointments or posts to backward classes varies from state to state. In Kerala, for example, 26 per cent of posts in government service are reserved for backward classes. And Bihar has reserved twenty-six per cent of government posts for the backward communities. As the backward class population is more or less the same in States, there is a pressure for raising the reservation quota.

The centre and the State Governments have also launched many schemes to improve the educational standards of the students of Other Backward classes. These schemes are pre-paid examination coaching and scholarships, boarding grants, books, articles, supply of books, stationery and uniforms, hostels, medical attendance, scholarships and assistance to voluntary organisations to undertake schemes to improve the socio-economic

and educational conditions of Other Backward Classes. Other schemes implemented are: the Government of India has set up the National Commission for Other Backward Classes to review the list of backward classes after every ten years. The National Commission has the powers of a Civil Court. Lastly, the Union Government has also set up a Finance and Development Corporation for other Backward classes to provide financial assistance to them for projects aimed at bettering their skill and lot. And the corporation in furtherance of its objective has spent Rs. 120 lakh during 1998-1999.

It may be pointed out that the backward classes have developed strong vested interests in their backwardness. The system of reservation in government posts and services undercuts the efficiency and morale of the civil service by including candidates of sub-standard quality into administration. Again, the groups and persons included in other backward classes are themselves on various levels of backwardness, some being relatively more advanced than others. And the worst is that the system of reservation among other backward classes perpetuates caste and class distinctions which have always been the bane of our society.

Q. 9. What is Regionalism? How does it influence Indian polity?

Or

Explain the meaning of the term "Regionalism" in India. Discuss the consequences of Regionalism on the democratic political system in India.

Ans. India, a classic civilisational society is also the most ancient and complex federal polity in the world. This is evident in all multiple lines of variation and diversities—ethnic diversity, culture/patterns, social customs, religious beliefs, languages, and dialects, regional and sub-regional identities. While there is a pervasive sense of Indian unity, yet the existence of these diverse cultural diversities underline the need to build a new whole federal national identity. That indeed is one of the major concerns and challenges of contemporary Indian politics. Within its territorial jurisdiction, the Republic of India encompasses as of now 28

States and 7 Union Territories comprising 14.8 million. There are 8 major linguistic communities. The scheduled castes and tribes account for about 16 per cent and other tribal and backward peoples population constitutes all together 10 per cent of the total population. Besides there are 22 major linguistic groups in the country. And finally, while 77 per cent of India's population lives in villages, only 2 per cent population inhabits urban cities and towns.

But what has emerged is that the states are not constituted merely on the basis of linguistic homogeneity. Many other variable and critical factors like ethnic-economic considerations, religion and subsequently historical and political factors, and socio-cultural and administrative factors have played a decisive role in the formation of the Indian federation.

But there is an emerging trend in our polity today, a concept of regionalism is more basic to the very concept of federalism than regionalism and sub-regionalism. Regionalism is defined in the words "region" which is a defined territorial unit having certain language or languages, race, ethnic groups, cultures, patterns of social setting and cultural patterns. Regionalism is not a neutral reality emerging on the political horizon, it is a negative phenomenon. Regionalism is a strong feeling of loyalty towards one's region. A region have for that region, the aspiration and desire to have more power to govern themselves and establish their own law for a state to which the region belongs or participate in a nation. The essence of regionalism is not to create a widely shared sentiment of nationalism. A strong Indian Nationalism regionalism in India has both a positive and a negative dimension. Speaking in positive terms it indicates a quest for self-fulfilment on the part of the people of India. Negatively speaking regionalism reflects a passion for localisation resulting into specific grievance. The regionalism is defined as a manifestation of those feelings, emotions, wishes, hopes and expression in the national political arena. And being even in India the tendency of regionalism is characterised as political discontent. It is the state of mind or feeling of regionalism may arise due to

continuous neglect of the region by the ruling authorities. It may also spring up as a result of increasing political awareness of the hitherto backward people that they have so far been discriminated against. We can easily identify such regions as Bodoland in Assam, Gorkhaland in West Bengal, Vidharva in Maharashtra, Ladakh in Jammu and Kashmir and Telengana in Andhra Pradesh etc.

Let us now discuss in brief the factors that contributed to the growth of regionalism in India. *First*, history has contributed to the origin of regionalism doubly, i.e. positively and negatively. For example, the origin of Shiv Sena is a proof of positive contribution and of Dravida Munnetra Kazhagam (DMK) a negative one. *Second*, after Independence, the states have been reorganised on the basis of old boundaries and as the people living in one state have not been able to develop the feeling of national brotherhood, language and culture lead to regional sentiments. The inhabitants of Tamil Nadu consider their language and culture to be superior to Indian culture. *Third*, race has also contributed significantly to the growth and development of the regionalism. Discrimination of a single caste at a place leads to rise of form of regionalism. That is why regionalism is at its worst in Jharkhand and Maharashtra and is absent in Uttar Pradesh. *Fourth*, economic cause play a vital role in the origin of regionalism. There has been an uneven economic development in India. So the feelings of regionalism originate among the people belonging to the backward areas and they demand states. *Fifth*, the weakening of the central authority has helped the regional leaders in enhancing their own authority and power by arousing regional sentiments among the people.

Nationally, regionalism finds expression in three kinds of demands—(i) demands for regional autonomy (e.g. Tamil Nadu and Punjab); (ii) demand for separate statehood (e.g. the Gorkhas in West Bengal and Bodos in Assam); and (iii) desire to secede from the Indian Union (e.g. the Mizos and the Nagas etc).

Regionalism has enormously affected Indian politics and is confronting the country as a cardinal complicated problem. Every citizen enjoys Indian nationality as per the Constitution, but the people are so much dominated by regional and provincial

sentiments that they are ready to sacrifice national interests for the sake of community or provincial welfare. Regionalism has been quite dominant in the Indian political system since 1950.

Regionalism greatly influences the Indian polity. Its effects are—(i) regionalism has given birth to a number of regional political parties which emphasise the need and aspirations of the people of various regions—the DMK and AIADMK in Tamil Nadu, the Telugu Desam in Andhra Pradesh, the Akali Dal in Punjab and the National Conference in Jammu and Kashmir. They also appear in West Bengal, Assam, Mizoram etc. To a great extent the regional parties are relevant to the people who fear that their identity and identity are not safe. (ii) there is also demand for full-fledged statehood. It means that regionalism has led to demands of smaller states. The newly created states like Uttarakhand, Jharkhand and Telangana were formed on this basis. Again the Gorkha National Front of West Bengal under the leadership of Subash Ghosh has needed the demand for a separate Gorkhaland. (iii) Sometimes disputes arise over the use of Kaveri Waters amongst the States of Tamil Nadu and Karnataka. There is also a boundary dispute between Maharashtra and Karnataka in Belgaum. In all these cases every Chief Minister has endeavoured to obtain the maximum advantage for his own state, regarding his state as an intrinsic part of the India. (iv) Inevitably, regional politics may complicate the strength of the central government in India. The emergence of strong regional parties may ultimately create situation of political instability in India and in such cases people had to resort to armed insurrection. After the years the Jammu-Kashmir Liberation Front (JMKLF) and the Bodo Liberation Tigers (BLT) of Assam have been able to disturb the order, leading to enormous loss of life and property of the regions.

Undoubtedly, if the regional parties have come of age and have shown that they tend to behave responsibly when in power. Let us not create a barrier between regional aspirations and separatist tendencies. If a party does not harbour secessionist and separatist designs, there is no reason why it should not be allowed to operate. After all it is much better to have open political activity than secret

underground bodies or organisations. If the centre and the states work in full understanding, strictly on the basis of principles that the framers of the Constitution have laid down, there can be no scope for confrontation. National and regional parties must co-exist to promote public welfare. Neither should harbour the erroneous idea that regionalism is not compatible with nationalism. Both must work within the framework of the consensus. Parties should follow a rational policy in relation to problems of regional loyalties vis-à-vis the national ideas.

SHORT QUESTIONS AND ANSWERS

Preamble and Features of the Constitution of India

Q 1. Meaning of the Preamble is the Constitution of India.

Ans. In India, the Preamble is the preface of the Constitution. It is a declaration of the values and principles on which the Constitution is based. It is the first and foremost part of the Constitution, which is the guiding light for the entire Constitution. It is the first and foremost part of the Constitution, which is the guiding light for the entire Constitution.

Q 2. Significance of the Preamble of the Constitution of India.

Ans. The Preamble of the Constitution of India has a great significance. It is the first and foremost part of the Constitution, which is the guiding light for the entire Constitution. It is the first and foremost part of the Constitution, which is the guiding light for the entire Constitution. It is the first and foremost part of the Constitution, which is the guiding light for the entire Constitution.

Q 3. Foundation of the Constitution of India.

Ans. The Preamble of the Constitution of India is the foundation of the Constitution. It is the first and foremost part of the Constitution, which is the guiding light for the entire Constitution. It is the first and foremost part of the Constitution, which is the guiding light for the entire Constitution. It is the first and foremost part of the Constitution, which is the guiding light for the entire Constitution.

Q. 4. Meaning of Socialism in the Preamble to the Constitution of India.

Ans. The Constitution of India (42nd Amendment Act, 1976) has introduced the word "socialist" in the Preamble, to qualify our Republic. The text of the Preamble as amended gives almost the highest place of honour to the objectives of socialism. However, the term "socialism" has not been defined by the Constitution. In Indian context, the "socialist" gives a positive direction to State activities. They include—wiping out poverty, increasing production, modernising the economy, preventing the growth of monopoly, reducing disparities and inequalities between different classes, castes and regions. In short, it seeks to establish a welfare State.

Q. 5. Meaning of Secularism in the Preamble to the Constitution of India.

Ans. The word "secular" has been inserted in the Preamble of the Constitution by its 42nd Amendment Act, 1976. But the word "secular" is very ambiguous and it has not been precisely defined in the Constitution. The secularism of the India points towards equality of rights to all citizens as citizens with their religions being irrelevant in the matter. The State (Union and State governments) does not owe loyalty to any particular religion as such; it is not religious or anti-religious; it gives equal freedom to all religions. In short, in India, secularism, all citizens are treated alike and not discriminated against on account of their religion.

Q. 6. Meaning of Social and Economic Justice in the Preamble to the Constitution of India.

Ans. In our Constitution, the Preamble places justice higher than the other principles of liberty, equality and fraternity. And justice is elaborated as social and economic justice. Social justice implies that all citizens are treated equally irrespective of their status in society. Provisions for human conditions of work, prohibition of discrimination in public places, removal of social barriers like untouchability etc. are all directed towards social justice.

The Constitution of India also secures a new economic order imbued with justice. It lays a special emphasis on the right to

work, right to get adequate wages, prevention of concentration of wealth etc. It also implies freedom in the sphere of production and distribution subject to the general welfare.

Q. 7. Any two fundamental features of the Constitution of India.

Ans. Two features: (a) The Constitution of India is a comprehensive written document with 415 Articles and 13 Schedules. It deals with the detailed provisions relating to the organisation and functions of the legislative, executive, and judicial branches of the governments of the Union and the States; and (b) India is a federal State though the Constitution describes it as a Union of States. Indian federation is formed on the Canadian model. It is marked by the dual government, distribution of powers, supremacy of the judiciary, but single citizenship.

Q. 8. Procedures of amendment of the Constitution of India.

Ans. Article 368 of the Constitution of India deals with the process of its amendment. Certain provisions of the Constitution (e.g. fundamental rights and directive principles) can be amended by a majority of total membership and also a majority of two-thirds of the members present and voting in each House of the Lok Sabha and the Rajya Sabha. And the federal provisions of the Constitution (e.g. distribution of powers, election of the President etc.) require to be amended by a majority of total membership as well as two-thirds of the members present and voting separately in the Lok Sabha and the Rajya Sabha. Here the ratification of half of the State Legislatures is required.

Q. 9. Some of the important sources and Basic characteristics of the Constitution of India.

Ans. Sources: (a) The Constitution of Great Britain, (b) The Constitution of America, (c) The Constitution of Canada, (d) The Constitution of Ireland, and (e) The Government of India Act, 1935.

Characteristics: (a) Popular sovereignty based on the idea of Universal adult franchise,

(b) Parliamentary form of Government,

(c) Social Justice through the provisions of fundamental rights and Directive principles,

(d) Secularism,

(e) Federalism,

(f) Judicial independence,

(g) Idea of Flexibility and Rigidity through an amending process.

Q. 10 Any two non-parliamentary features of the Indian Governmental system.

Ans. India's form of Government is more or less similar to that of the British system of parliamentary government. But our governmental machinery unlike its counterpart in Great Britain, is marked by two non-parliamentary feature

(a) The Prime Minister of the Union Government may be appointed from either House of Parliament—Lok Sabha or Rajya Sabha and (b) The Ministers are entitled to address the Sessions of both the Lok Sabha and the Rajya Sabha and take part in the deliberations. However, a Minister votes only in the House to which he belongs.

Fundamental Rights and Duties and Directive Principles

Q. Any two characteristics of the language of rights in the Constitution of India.

Ans. Two features (a) The fundamental rights are substantive rights. They are in a way rights of the State but the State can confer additional fundamental rights through the amendment of the Constitution and

(b) Fundamental rights are both positive and negative. Positive rights confer some privileges on the citizens e.g. the right to practise any profession. But the negative rights impose restrictions on the exercise of the State. For example—abolition of Untouchability.

Q. 2 Meaning of the expressions "equality before the law" and "equal protection of laws" in Article 14.

Ans. Our Constitution in Article 14, provides that all persons are equal before the law and enjoy equal protection of laws within the territory of India. Equality before the law is used in the

negative sense. It means, in absence of special privileges. For example, the government officials and the private individuals are subject to the ordinary laws and are equally courts. On the otherhand, the equal protection of laws is a positive concept. It signifies that all persons are to be treated equally in similar circumstances. In other words, the State should not make any discrimination between one person and another.

Q. 3 "Six Freedoms" in Article 13 of the Constitution of India.

Ans. According to Article 13 of our Constitution, the citizens of India have the right to—

(a) freedom of speech and expression,

(b) assemble peacefully and without arms,

(c) form associations or unions,

(d) move freely throughout the territory of India,

(e) reside or settle in any part of India, and

(f) acquire, hold and dispose of property in any part of India and to practise or profess any religion. The State cannot make any laws which are in violation of the principles of security of State, public order, decency, contempt of court etc.

Q. 4 Right against exploitation (Articles 23-24)

Ans. The Constitution of India prohibits traffic in human beings and forced labour. But the State may compel a person to work for public purposes when the necessity of such work is proved. Sex discrimination in the employment of children below the age of 14 years in mines and mines. This is in accordance with the basic rights concepts and the United Nations Declaration.

Q. 5. Preventive Detention Act.

Ans. The Constitution of India in Article 22 deals with the preventive detention. The Parliament has been empowered to make laws to empower the State to detain a person without trial in the interest of the security of the State or public order and also for the protection of the community. When a person is detained under Preventive Detention Act, he must be kept in a place specified in the law. The arrested person

may be allowed to consult a lawyer of his own choice. Moreover, he cannot be detained in custody for a period not exceeding three months.

Q. 6. Right to Freedom of Religion.

Ans. The Constitution of India in Articles 25-28 grants freedom of religion to all persons. It grants to every person the right to freedom of belief, faith and worship. Thus the people have the right to freely profess, practise and propagate religions of their own choice and the State cannot interfere in the religious activities of the individuals in any manner. All religions have the right to establish and maintain institutions for religious purposes. Again, the State cannot compel the individuals to pay taxes for religious denominations. In India, the State has no religion of its own and it does not propagate religions in connection with governmental institutions. Thus India has become a secular State.

Q.7. Right to Constitutional Remedies in the Constitution of India.

(A). Enforcement of Fundamental Rights under Article 32.

Ans. Under Article 32 of the Constitution of India, the Supreme Court has the power to issue writs for the enforcement of fundamental rights. Five writs are :-

(a) Habeas corpus. — It means that no person can be detained for an indefinite period without trial.

(b) Mandamus. — It empowers the Supreme Court to compel a public official to discharge his duties properly.

(c) Prohibition. — It implies that our Highest Court can prevent a lower court from exercising any judicial power which is not within its jurisdiction.

(d) Certiorari. — It signifies that the Supreme Court has the power to direct an inferior court to submit the record in proceedings of a case pending before the latter and

(e) Quo Warranto. — It is an injunction to determine whether a person has the requisite qualifications or not to hold any office under the State.

Q. 8. Limitations upon the Fundamental Rights.

Ans. In India, the fundamental rights are not absolute. They

are subject to certain limitations :-

(a) The Union Parliament can modify the fundamental rights in their application to the members of the armed forces;

(b) During the operation of Martial Law the Parliament has the power to indefinitely a government servant for his actions;

(c) When a national emergency is in force (Art. 352), the citizens cannot enjoy freedoms of speech, assembly, and organisation; and

(d) During the period of national emergency the President may suspend the power of citizens to move the Supreme Court for the protection of the fundamental rights.

Q. 9. Prohibition of Discriminations in Article 15.

Ans. Article 15 of the Constitution of India deals with prohibition against discriminations. It prohibits the State to make any discrimination against any class or grounds only of race, caste, sex, religion, place of birth, etc. All citizens irrespective of race, caste, sex, religion, etc. are entitled to enjoy equal rights with regard to state employment, public facilities, public places, etc. But the State has the right to make any special provision for women, children and also for the Scheduled castes and Tribes.

Q. 10. Fundamental Duties of Indian Citizens.

Ans. Part IV A of the Constitution of India contains several important fundamental duties. It is the duty of a citizen to—

(a) abide by the Constitution, and respect the National Flag and the National Anthem;

(b) uphold and protect the unity and integrity of India;

(c) promote harmony and the spirit of common brotherhood amongst all the people of India;

(d) protect and improve the natural environment including forest, rivers and wild life;

(e) to safeguard public property; and

(f) to save and preserve the rich heritage of our composite culture. But the fundamental duties are not enforceable by the courts. However the sanction behind the fundamental duties is the force of public opinion.

Q. 11. Relation between Fundamental Rights and Fundamental Duties.

Ans. Under the Constitution of India, the fundamental rights and the fundamental duties are closely related. We have a set of fundamental duties (Part IV-A), in addition to the fundamental rights (Part III) in the Constitution. A citizen should exercise his fundamental rights in such a way as not to interfere with the rights of other citizens. For example, every person has the freedom of religion. So, he must not interfere in the religious affairs of others. Like the fundamental rights, the fundamental duties also enable the citizens to secure participation in the political system more effectively. In short, the fundamental rights and fundamental duties are intended to enable the citizens to love for the Motherland and respect for the Constitution and laws of the country. Hence, the fundamental rights and the fundamental duties are correlative.

Q. 12. Directive Principles of State Policy

Ans. The directive principles are the instructions which the State should pursue both in a domestic sphere and in foreign life. Again, there are certain rights and duties which the State should secure to all its citizens. These are State policy and principles. Some important directive principles are: organisation of village panchayats, development of village industries, workers participation in the management etc. Although not enforceable by the courts, these directive principles are fundamental in the governance of the country.

Q. 13. Aim or objective of the Directive Principles of State Policy.

Ans. According to the Constitution of India, the State shall strive to promote the welfare of the people by securing and protecting a social order in which social, economic and political justice shall inform all the institutions of national life. This is the aim which the framers of the Constitution had in mind. It includes the directive principles in the Constitution. The welfare of the State is the ideal and the State must use all its energy to achieve it.

attainment of general welfare. It makes the real type of democracy as the aim of the State in India.

Q. 14. Some examples of Gandhian and Socialist Directive Principles.

Ans. Gandhian Principles — (a) Organisation of village panchayats.

(b) Development of village industries in rural areas.

(c) Prohibition of the consumption of intoxicating drinks and drugs, and

(d) Protection of educational and economic interests of the weaker sections of the people.

Socialist Principles — a. Workers participation in the management of industries;

(b) Securing just and humane conditions of work and maternity relief;

(c) Equal pay for equal work for both men and women; and

(d) Prevention of concentration of wealth in a few hands.

Q. 15. Major differences between the Fundamental Rights and the Directive Principles of State Policy.

Ans. Fundamental rights compared with the directive principles reveal some important differences.

(a) Fundamental rights have been described in clear precise words, but the directive principles are enigmatised in the form of general aims and objectives of the State policy.

(b) The fundamental rights are negative and they impose serious limitations upon the authority of the State. But the directive principles are positive and as such they give instructions to the government to pursue a policy for realisation of good life of citizens, and

(c) Fundamental rights are justiciable. That is, the rights can be enforced in a court of law. But the directive principles are non-justiciable in nature. It means that they are not enforced by the courts.

Q. 16. Significance of the Directive Principles of State Policy

Ans. The directive principles are treated as positive mandates. They are the guiding light for the human rights protection of the

Constitution of India. For through them the Constitution seeks to achieve the ideal of a democratic welfare State. The Constitution states that the directive principles are fundamental to the governance of the country. Even the judiciary has to keep them in mind while interpreting the laws as they constitute the spirit of the Constitution. In the last analysis, a real sanction behind all laws is the public opinion which is also the sanction behind the directive principles. For instance, if a party in power ignores these principles, it will certainly have to answer for them before the electorate, when the next election comes.

Q. 17 Relation between the fundamental rights and the directive principles.

Ans. The fundamental rights and the directive principles are the integral and valuable parts of the same Constitutional edifice. They are all equally important and have to be read with each other. Their emphasis is on building an egalitarian society and on the concept of socio-economic justice. Although not enforceable in law-courts, the directive principles are fundamental as guiding principles for making and administering the laws of the country. We can say that the fundamental rights and directive principles together constitute the soul of the Constitution. In short, there is no essential dichotomy between the fundamental rights and the directive principles. They complement and supplement each other.

Nature of Indian Federalism and Union-State Relations in India

Q. 1 Significance of Article 1 of the Constitution of India.

Ans. The Indian Constitution in Article 1 describes India as a "Union of States". According to Dr Ambedkar, there are two advantages in using the expression "Union of States".

Firstly, the Indian Union is not the result of an agreement by the States to join the federation. It implies that the States were not sovereign before the formation of the federation.

Secondly, the Indian Union is indestructible. The constituent States have no right to secede from the Union.

Q. 2 Two unfederal features of Indian Constitution.

Ans. a. Parliament has exclusive control on 97 union subjects and exercising control over 52 concurrent items of common importance. Besides, the residuary powers are given to the Parliament, and

b. The Government is the agent of the Union government. His appointment, transfer and removal are all placed under the control of the Union. Certain State bills are also reserved for the consideration of the President.

Q. 3. Co-operative federalism in India.

Ans. In India, the Centre-State relations have been described as a form of co-operative federalism. It means that neither the Centre nor the State can impose decisions on the other. Rather there is an open emphasis on co-operation, harmony and partnership. For example, protection of environment, family planning, economic and social planning etc. are the spheres in which considerable co-operation exists between the Centre and the States. The Centralised framework of the Centre-State relations is sufficiently flexible and has the capacity to enable the system to handle a federal as they arise. For example, during the President's rule the Vidhan Sabha of the State cannot be dissolved without the resolution of the Parliament.

Q. 4 Some important subjects of legislation in the three lists.

Ans. The Constitution of India has distributed the legislative powers between the Centre and the States into three lists :-

a. Parliament has exclusive authority to make laws on 99 subjects enlisted in the *Union List*. For example security of State, defence, foreign affairs, currency and coinage etc.

b. The State Legislatures make laws on 61 subjects contained in the *State List*. For example, public order, public health, agriculture, local government etc.

Both the Parliament and the State Legislatures are empowered to legislate on 52 Concurrent items. For example marriage and divorce, education, forests, social security etc. However, if there is a conflict, the Union law prevails. And lastly, the residuary powers belong to the Centre.

Q. 5. The Concurrent List.

Ans. In the *Concurrent list*, 52 items are enumerated to strengthen the unity of the country and for better use of national resources. The important items are—education, forests, marriage and divorce, civil and criminal procedure, social security, etc. These subjects are obviously such as may at sometimes require legislation by Parliament and at others by the State Legislatures. However in case of conflict between the Union and State laws in the Concurrent list, the Constitution recognises the supremacy of the Union law over the State law.

Q. 6. Significance of Article 249 as enumerated in Indian Constitution.

Ans. Under certain extra-ordinary circumstances, the Union Parliament can legislate on a subject in the State list in the interests of the nation. Article 249 stipulates that Parliament has the power of legislation with regard to any item mentioned in the State list in the national interest if the House/ Houses pass a resolution to that effect supported by a majority of not less than two-thirds of the members present and voting.

Q. 7. The Union government's two executive directions to the States.

Ans. (i) The executive power of every State is so exercised as to ensure compliance with the laws made by the Parliament for that purpose. (ii) The Union government may give directions to a State,

(a) The Union government may also give directions to a State for the enforcement and maintenance of law and the communication of national and military importance, as well as the protection of railways within the State.

Q. 8. Inter-State Council.

Ans. In accordance with Article 263, the President is empowered to establish an inter-State Council—

(a) for inquiring into and advising upon disputes which may arise between the States.

(b) to investigate and discuss subjects in which the Union and the States have common interests, and

(c) to make recommendations for the better co-ordination of policy and action with respect to any subject or subjects.

The Inter-State Council was established in 1960. In its meetings on several occasions, the Council has discussed different issues like the appointment of the High Commissioner with the consent of the State Chief Minister, and also border disputes and language problems arising between the States concerned.

Q. 9. Centre-State financial relations in India.

Ans. The Centre-State financial relations are described below—

(a) Duties levied by the Union but collected and appropriated by the States (e.g. stamp duties, excise duties on medicinal and toilet preparations),

(b) Taxes levied and collected by the Union but assigned to the States (e.g. excise on salt and opium, rights, etc.) and

(c) Taxes levied and collected by the Union but distributed between the Union and the States (e.g. corporation tax, income tax, etc.). The Union also contributes to the State Government's expenditure on public works, highways, ports and telegraphs. The Union also contributes to the State Government's expenditure on public works, highways, ports and telegraphs. And the State government's expenditure on public works, highways, ports and telegraphs.

Q. 10. Delegation of administrative functions.

Ans. As stated in Article 248 of the Constitution of India, the President may, with the consent of the government of a State, entrust any of his functions or powers in relation to any matter to any person or authority. The President's power extends and a law made by the President with the approval of the State. Similarly, under Article 249, the President may, with the consent of the State Government, entrust any of his functions or powers in relation to any matter to any person or authority. The President's power extends and a law made by the President with the approval of the State.

The Union Executive—The President, The Prime Minister, and the Council of Ministers

Q. 1. Election of the President of India.

Ans. Under the Constitution of India, the President of our Republic is elected by an electoral college consisting of—

(a) the elected members of both Houses (Lok Sabha and Rajya Sabha) of Parliament, and

(b) the elected members of the Legislative Assemblies (Vidhan Sabhas) of States. The election is held in accordance with the system of proportional representation by means of the single transferable vote and in order to win election, a candidate is required to obtain quota which is—

$$\frac{\text{Total number of valid votes}}{2}$$

Q. 2. Removal of the President of India.

Ans. According to the Constitution of India, the President of the Republic can be impeached for the violation of the Constitution. A resolution impeaching such charge can be initiated in either House (Lok Sabha or Rajya Sabha) of Parliament. If such a resolution is passed by a majority of two-thirds of the total membership of each House of Parliament, the President of India is forthwith removed from the office.

Q. 3. Two legislative powers of the Indian President.

Ans. The President of India is an integral part of the Parliament. For our Parliament is composed of the President, the Lok Sabha and the Rajya Sabha. Two legislative functions are—

(a) The President summons and prorogues the Houses of Parliament. He can dissolve the Lok Sabha. Again, the President addresses both Houses of Parliament assembled together at the first session each year, and

(b) The President may give his assent to a public bill or may withhold his assent. Again, no money bill can be granted unless recommended by the President, nor can the money bill be introduced except on his recommendation.

Q. 4. Ordinance-making power of the President of India.

Ans. When the Parliament is not in session, the President may issue an ordinance which renders it necessary for him to take immediate action. It has the same force as the law of Parliament. But it must be placed before the Parliament when it again assembles. If it is then approved by both Houses of Parliament, it will cease to operate after six weeks of the date of reassembly of Parliament.

Q. 5. Proclamation of Emergency (Article 352)

Ans. Under Article 352 of the Indian Constitution, the President may proclaim state of Emergency if he is satisfied that a grave situation exists which by the security of India or any part thereof is threatened by war or external aggression or armed rebellion. The life of the proclamation of emergency is fixed at six months unless renewed by the Parliament. The important effects of proclamation of emergency are—
(a) freedom of trade in Art 19 remains suspended. And Parliament can legislate on any subject in the State List.

Q. 6. Effects of President's Rule in a State.

Ans. Effects are—

(a) The State Council of Ministers is dismissed and the President may assume himself or by any functionaries of the State or may vest these functions to the Governor,

(b) The powers of the State Legislature are exercisable by or under the authority of Parliament, and

(c) The President may spend money from the Consolidated Fund of the State pending the approval of Parliament.

Q. 7. Financial Emergency (Article 360)

Ans. The Constitution of India empowers the President to proclaim a state of financial emergency if the financial security or stability of the country is badly shaken. Its normal duration is six months unless renewed by the Parliament. And if effects are—
(a) The Union Government may give directives to the States to observe the economy and financial discipline. All money bills passed by the State Legislatures are reserved for the consideration of the President.

And the President may issue directives for reducing the salaries and allowances of the government employees and the Judges of the courts.

Q. 8. Constitutional position of the President of India.

Ans. Under the Indian parliamentary system, the President of the Republic is a mere Constitutional figurehead. He is the head of the State but not of the government. He represents the nation but does not rule the nation. The President of India is the ornamental President acting on the advice of his Ministers. There is no special provision for any discretionary exercise of powers during the emergency. Although our President is the nominal head, much depends on his personal qualities and the role he plays in moments of political crisis. In short, the President is a symbol of national unity, magnet of loyalty and apparatus of ceremony.

Q. 9. The Vice-President of India.

Ans. The Vice-President of India is elected by an electoral college consisting of the members of the Houses (Lok Sabha and Rajya Sabha) of Parliament. The election is held in accordance with the system of proportional representation and the single transferable vote. The Vice-President's tenure is five years unless he resigns or removed earlier. The major functions of a Vice-President are —

(a) The Vice-President is the ex-officio Chairman of the Rajya Sabha. His domain is that of supervising proposals of questions asked by the members. He can only exercise casting vote in case of tie, and

(b) The Vice-President officiates as the President of the Republic when he discharges his functions in the event of death, resignation or removal of the President. Thus next to the President of India the highest position of the country is accorded to the Vice-President.

Q. 10. Two important functions of the Prime Minister of India.

Ans. Under the Indian parliamentary system, the Prime

Minister is the head of the Union government and thus he exercises two important functions —

(a) The Prime Minister selects the persons and recommends to the President to appoint them for the Council of Ministers. The number of Ministers and the distribution of portfolios amongst them are determined by the Prime Minister and

(b) The Prime Minister presides over the meetings of the Union Cabinet. He supervises and co-ordinates the activities of different departments.

Q. 11. Appointment and Removal of the Prime Minister of India.

Ans. Under the Constitution of India, the Prime Minister is appointed by the President of the Republic. The Constitution gives the President the right to appoint the leader of the single largest political party or a leader of several different political parties in the Lok Sabha as a Prime Minister of India. The Prime Minister may also be appointed even among the members of the Rajya Sabha.

The normal tenure of the Prime Minister is five years unless he resigns or is removed. The Lok Sabha may throw the Prime Minister out by passing a motion of no-confidence.

Q. 12. Relationship between the President and the Prime Minister in India.

Ans. Under the Indian parliamentary system, the Prime Minister acts as the main adviser of the President. He is the link between the Council of Ministers and the President. He advises the President in the appointments of the Ministers and important officers of the Union government. It is also the duty of the Prime Minister to recommend to the President all important decisions of the Council of Ministers relating to administrative affairs of the Union government and proposals for legislation. He may advise the President to suspend and prorogue the sessions of the Lok Sabha. The Prime Minister has also the power to advise the President to dissolve the Lok Sabha and to order a fresh election.

Q. 13 Relationship between the Prime Minister and the Council of Minister

Ans. In India the Council of Ministers is the real executive of the Union government and the Prime Minister is its leader. The Prime Minister is central both to the life and death of the Council of Ministers. The Council of Ministers is formed by the President on the advice of the Prime Minister. The Prime Minister distributes portfolios among the Ministers. He summons, prorogues and presides over the meetings of the Union Cabinet. Again, he supervises and co-ordinates the activities of different departments. The Prime Minister also settles the departmental disputes. He usually consults his Cabinet colleagues on all important problems of domestic and foreign affairs. If any minister disagrees with the Prime Minister, he shall have to resign.

Q. 14 Position of the Prime Minister of India.

Ans. In India's parliamentary democratic government, the Prime Minister occupies a unique position as the most powerful functionary who controls not only the Council of Ministers and the Parliament. As the head of the Council of Ministers, the Prime Minister is the head of the government. As such, he is the leader of the party in Parliament, and the leader of the popular House. The Council of Ministers looks to him for its solidarity and the Parliament looks to him for its redress of its grievances. In the ultimate analysis, however, everything depends on the personality of the Prime Minister and the level of acceptance and support he commands from the nation, his party and the Parliament.

Q. 15 Council of Ministers in India.

Ans. In Indian parliamentary system, the actual administration of the Union government is carried on by the Council of Ministers headed by the Prime Minister. The Ministers are appointed by the President on the recommendation of the Prime Minister. There are three categories of Ministers—

- (a) Cabinet Ministers,
- (b) State Ministers, and
- (c) Deputy Ministers. They hold office during the pleasure of the President.

The Council of Ministers plays the key role in executive, legislative and judicial spheres. It determines and formulates the domestic and foreign policies of the government. Besides, the Cabinet co-ordinates the workings of different departments. Moreover, the Council of Ministers summons and prorogues the sessions of Parliament. More than ninety percent bills are government bills are prepared by the Ministers. They are introduced and debated in Parliament by the Ministers.

Q. 16 Collective responsibility of the Union Council of Ministers.

Ans. The principle of collective responsibility of the Union Council of Ministers is the crowning feature of the Indian parliamentary system. It means that the entire council of Ministers is jointly responsible to the Lok Sabha for the policies and actions of the Union government. There are several methods by which the Lok Sabha exercises its responsibility on the Ministers, such as, asking questions, motions, adjournment motion, motion of no-confidence etc. Therefore, if the Council of Ministers loses the confidence of the Lok Sabha, the entire Ministry must resign.

Indian Parliament

Q. 1 Constituent parts of the Indian Parliament.

Ans. The constituent parts of the Indian Parliament are—

- (a) the President,
- (b) the Lok Sabha, and
- (c) the Rajya Sabha.

The President is an integral part of the Parliament. He summons, prorogues the Parliament and can dissolve the Lok Sabha. No bill can become an Act without the assent of the President.

The Lok Sabha is the lower House and is the direct choice of the people. More than half and two-thirds of the public bills originate in the Lok Sabha. And the Rajya Sabha is the upper House. It is partly elected and partly nominated. It can delay a public bill and a money bill for six months and 14 days, respectively. It has also the power to create more All-India services.

Q. 2 Organisation (composition) of the Lok Sabha.

Ans. The Lok Sabha is the lower House of Indian Parliament. It consists of 547 members—

(a) 525 members represent the States,

(b) 25 members are from the Union Territories, and

(c) 2 members are nominated by the President from the Anglo-Indian community. The members are directly elected by the citizens of 18 years of age and above. The tenure of Lok Sabha is five years. The members elect a Speaker from among themselves to preside at its meetings.

Q. 3 Speaker of the Lok Sabha.

Ans. After a new Lok Sabha is constituted, its members elect a Speaker from among themselves. The Speaker presides over the meetings of the Lok Sabha. He maintains the order and decorum in the House. He interprets the rules and procedure of the Lok Sabha. He has authority to adjourn the Speaker may suspend the meeting of the House if the members are unruly. He may vote in case of a tie. The Speaker may interrupt the propriety of a member's speech and may raise the question of adjournment and privileges of the members of the Lok Sabha. It is again the Speaker who presides at the joint sittings of the President and the Lok Sabha.

Q. 4 Composition of the Council of States (Rajya Sabha).

Ans. The upper House is the Council of States (Rajya Sabha). The maximum strength of the Rajya Sabha is 250. Of these 238 members represent the States and Union Territories and they are elected by the method of proportional representation by single transferable vote. And the remaining 12 members are nominated by the President. Amongst these 12 members, five special knowledge or practical experience in Art, Science, Literature, and Social Service.

The Rajya Sabha is a permanent body. All members are elected for six years but one-third retires every year. The Vice-President of India is the ex-officio Chairman of the Rajya Sabha.

Q. 5 Constitutional status of the Rajya Sabha in India.

Ans. In the frame work of the Indian Constitution, the Rajya Sabha possesses significant powers and in certain respects even enjoys equality with the Lok Sabha. The Rajya Sabha has consistently reflected the feelings, hopes, and aspirations of the Indian citizens. Its achievements in the various fields—political, social and economic have been considerable. Statutes have been signed by the Speaker of the Rajya Sabha. The traditions laid down by the Rajya Sabha are of extremely high order. However, our Rajya Sabha stands midway between the American Senate and the British House of Lords.

Q. 6 Two co-equal powers of the Lok Sabha and the Rajya Sabha.

Ans. Two co-equal powers are—

(a) In matters of ordinary legislation, both the Houses of Parliament have co-ordinate powers. A public bill may be introduced in either the Lok Sabha or the Rajya Sabha. No such bill can be passed without the assent of the President unless it is passed by both Houses in similar manner and

(b) the elected members of the Lok Sabha and the Rajya Sabha participate in the election of the President. Both Houses also elect the Vice-President of India.

Q. 7 Special powers of the Rajya Sabha.

Ans. Under the Constitution of India, the Rajya Sabha has some special powers—

(a) The Union Parliament can legislate on a subject in the State List if the national interest so requires when the Rajya Sabha passes a resolution to that effect supported by its two-thirds majority and

(b) Parliament can make laws for the creation of one or more new All India Services if the Rajya Sabha by its two-thirds majority has to pass a resolution to that effect.

Q. 8 Two non-legislative powers of the Indian Parliament.

Ans. (a) Parliament has a share in the formation of the Union Ministers. For Union Ministers are taken from both Houses of Parliament. They attend the Sessions of Parliament and take part in its deliberations, and

(b) The elected members of the Lok Sabha and the Rajya Sabha participate in the election of the President. Again both Houses of Parliament elect the Vice-President of India.

Q. 9. Two privileges and immunities of the members of the Indian Parliament.

Ans. In India, the members of the Parliament enjoy two important privileges and immunities—

(a) According to the Constitution of India, the members of Parliament enjoy freedom of speech and expression. No member can be taken to task anywhere outside the walls of the House (e.g. court of law) or cannot be discriminated against for expressing his/her views in the House and its committees.

(b) The members of Parliament also enjoy freedom from arrest. From this freedom, it is understood that no such member shall be arrested in a civil case 40 days and after the adjournment of the House and also when the House is in session.

Q. 10. Relations between the Union Council of Ministers and the Indian Parliament.

Ans. Constitutionally the Lok Sabha creates the Union Council of Ministers. But it remains in office as long as it enjoys the confidence of the House. It may pass a resolution expressing regret at government's action, or censure the Ministry for it. The Lok Sabha can call for explanations, move a motion of censure, appoint committees of investigation and control the Ministry financially. However in reality it is the Council of Ministers which controls the Lok Sabha for it is from the majority that the Union Ministry is formed. On account of party loyalty and discipline, the Lok Sabha is bound to support the Council of Ministers.

Q. 11. Committee system in the Indian Parliament.

Ans. In India, the committee system is old as Parliament itself. The Indian Parliament is too large and unwieldy to handle all proposed legislation coming before them. The committee save the time of Parliament to such an extent that without them the Parliament can never satisfy the needs of the people of the country.

The Indian Parliament has three committees which are important committees. (a) There are two types of bills. For decision of a committee, a bill may go through many stages upon the House. (b) In Lok Sabha, a bill is decided by a committee and report is made to the House. In Indian Parliament, there are various committees. (c) The committees are: Committee on Pensions, Rules Committee etc.

Q. 12. Difference between public bill and private bill.

Ans. In India, the Union Government enacts two kinds of bills—

(a) Public Bill, and

(b) Private Bill.

A public bill is a measure which will affect the interests of general public. It is introduced in the House after the general law of the country. A bill is introduced in the House relating to the question of local administration is called a private bill. Private bills are of two types—

(i) Government Bill, and

(ii) Private Member's Bill.

One of the main functions of the Parliament is the introduction and passing of bills. A bill is a proposal for a law. It may relate to the introduction of a new law or amendment of an existing law. A bill is introduced in the House after the general law of the country. A bill is introduced in the House relating to the question of local administration is called a private bill. Private bills are of two types—

Q. 13. Law-making procedure in Indian Parliament.

Ans. In India, the law-making process involves different stages for passing a bill—

(a) Introduction and First Reading,

(b) Committee Stage,

(c) Report Stage,

(d) Second Reading,

(e) Third Reading,

(f) Other House—Similar Procedure, and

(g) The President's Assent.

Q. 14. Public Accounts Committee.

Ans. The Public Accounts Committee is the Parliament's

watch-dog and guardian of the people against official negligence or corruption. It consists of 22 members— 13 and 9 members are elected by the Lok Sabha and the Rajya Sabha respectively. It investigates into cases of waste, corruption and inefficiency of the country's financial affairs. The committee does not limit itself to the formal scrutiny of the expenditure but also examines its wisdom, faithfulness and economy. The committee then submits its report to the Lok Sabha so that the financial irregularities can be discussed by the Parliament.

Government in the States

Q. 1. Appointment and removal of the Governor of a State.

Ans. Under the Constitution of India, there is a Governor for each State. The President of the Republic appoints the Governor by warrant under his hand and seal. He selects a person for governorship on the advice of the Union Council of Ministers. There is a practice to consult the Chief Minister of the State before appointing a Governor.

Constitutionally, the Governor holds office during the pleasure of the President and the pleasure can be withdrawn at any time. That is, the Governor can be removed at the Pleasure of anyone who does not assign any reason in writing.

Q. 2. Discretionary powers of the Governor of a State in India.

Ans. The Constitution of India vests the Governor to exercise some discretionary powers without the advice of his Council of Ministers. And in the exercise of his discretionary powers, the Governor's decision is final and void.

The Governor can exercise his discretion—

- in the appointment of the Chief Minister,
- while reporting a breakdown of the Constitutional machinery in the State,
- at the time of dissolving the Vidhan Sabha,
- while acting as the agent of the President,

(e) when exercising the powers in the adjoining Union territory as an administrator, and

(f) while exercising a special responsibility with respect to law and order (e.g., Governor of Nagaland).

Q. 3. Constitutional role of the Governor of a State.

Ans. Under the Constitution of India, the Cabinet system of the Centre differs from that in the States. Thus the office of the Governor is not purely ceremonial and ceremonial. He is an important functionary designed to play a vital role in the administration of the State. The Governor has to take decision in order to preserve, protect and defend the Constitution and laws of the State. His character, status and experience shape his role to a considerable extent. He should exercise his powers in such a manner that a happy relationship between the Centre and the State is ensured. It is expected that he will stand up to the needs of a new situation with confidence.

Q. 4. Relations between the Chief Minister and the Council of Ministers in an Indian State.

Ans. The Chief Minister is the keystone of the arch of the State Council of Ministers. He presides over the Cabinet, controls the agenda and maintains order. Nothing can be discussed without his approval and his decision is final. He must ensure that the members of the Council of Ministers do not criticise each other and work as a team. He supervises and controls the activities of all the central departments of his political colleagues. If a Minister disagrees with the Chief Minister, he must resign. If the Chief Minister resigns, the entire Council of Ministers will fall.

Q. 5. Role of the Chief Minister in an Indian State.

Ans. In a parliamentary democratic system of an Indian State the Chief Minister is a real functionary. He is, in fact, the chief administrator in an Indian State. The Chief Minister is the leader of the Council of Ministers of State Legislature, his own party and the electorate. He enjoys an undisputed victory. He works in close co-operation with the Union government in

order to get material aid for the development of his own State. Above all, the charisma, personality and also the popularity of the Chief Minister determine his position. His role and position may be akin to the sun, around which the Ministers revolve like the planets.

Q. 6 Composition of the State Council of Ministers

Ans. According to the Constitution of India, there is a Council of Ministers with the Chief Minister at its head to aid and advise the Governor in the exercise of his functions. The Governor appoints the Chief Minister and, on his advice, the other Ministers. They hold office during the pleasure of the Governor. And the Ministers must be the members of the State Legislature. Usually there are three types of Ministers—

- (a) Cabinet Ministers,
- (b) State Ministers, and
- (c) Deputy Ministers.

The Chief Minister circulates that the most important portfolio goes to the senior and influential colleagues, e.g., the Cabinet Ministers. The State and the Deputy Ministers assist the Cabinet Ministers in the discharge of their functions.

Q. 7 Composition of the Legislative Assembly (Vidhan Sabha) in a State

Ans. The Legislative Assembly is the Vidhan Sabha, the lower or popular House of any State Legislature. It is the centre of power in a State. The total membership of the Vidhan Sabha cannot be more than 60 or less than 50. The members of the Legislative Assembly are elected by direct adult and universal suffrage. 18 years of age or above is the minimum age for election. The Governor also nominates one representative of the Anglo-Indian community. The term of the Vidhan Sabha is five years or is dissolved earlier. The members of the Legislative Assembly elect a Speaker from amongst themselves to preside over and regulate its business.

Indian Judicial System The Supreme Court and the High Courts

Q. 1 Appointment and Removal of a Judge of the Supreme Court

Ans. A Judge of the Supreme Court is appointed by the President of India in consultation of a panel of three senior judges of the Supreme Court.

A Judge of a Supreme Court may be removed by the President of the Republic on an address presented to him by the Parliament on grounds of proved misbehaviour or incapacity. Such an address must be supported by a majority of total membership as well as by a majority of the members present and voting in each House of Parliament.

Q. 2 Original Jurisdiction of the Supreme Court of India

Ans. Under the Constitution of India, the Supreme Court has exclusive original jurisdiction. Here the Supreme Court entertains suits arising between—

- (a) the Government of India and one or more States,
- (b) the two or more States, and

(c) India and any State or Province and other States on the one hand and the Government and or heard or decided by other courts. And the Supreme Court in its original jurisdiction also entertains suits for the enforcement of Fundamental rights brought against the Government or a State Government or a State Government.

Q. 3 Supreme Court's power of Special Leave to Appeal

Ans. Under Article 32 of the Constitution of India, the Supreme Court in its discretions may grant special leave to appeal from the judgments, decrees or orders in any case or in any class of cases in the territory of India in the type of cases specified in the four clauses. But it will not apply in any order or decree or judgment of a court constituted under any law relating to

Armed Forces. The Supreme Court has itself said that it will grant special leave to appeal only in cases where there has been gross miscarriage of justice.

Q. 4. Advisory Jurisdiction of the Supreme Court of India.

Ans. Article 143 of the Constitution of India confers upon the Supreme Court advisory jurisdiction. The President may obtain the opinion of the Supreme Court on a question of law or fact of public importance. The Supreme Court may report its opinion, after such hearing as it thinks fit. Two points need to be made about this—

(a) The Supreme Court is not bound to express any opinion on the questions submitted to it; and

(b) The advisory opinion of the Supreme Court is not binding on the President, because it is not a judicial decision.

Q. 5. Supreme Court as the protector of fundamental rights of citizens.

Ans. The Supreme Court of India is the guardian and protector of fundamental rights. Any citizen whose fundamental rights have been violated may move the Supreme Court for the enforcement of the rights. And, the Supreme Court has power to do so in the name of *habeas corpus*, *mandamus*, *prohibition*, *certiorari*, and *quo warrant* not safeguarding the rights of citizens. Again, the Supreme Court may declare a law passed by the Union Parliament or the State Legislature null and void if it is contrary upon the fundamental rights guaranteed to the citizens by the Constitution.

Q. 6. Supreme Court as the guardian of the constitution in India.

Ans. Under the federal Constitution of India, it is for the Supreme Court to declare what the provisions of our written Constitution mean. Thus, the Supreme Court can examine the validity of any law of the Legislature (Union or State) or of the executive order (President or Governor). If any law or order violates the provisions of the Constitution, the Supreme Court can declare it invalid. So, the Indian Supreme Court is the

interpreter and guardian of the Constitution. However, the Supreme Court under the name of interpretation cannot alter or amend the law.

Q. 7. Appointment and Removal of a Judge of the High Court.

Ans. In an Indian State, a Judge of the High Court is appointed by the President of the Republic in consultation with the Chief Justice of the Supreme Court and the Governor of the State concerned.

A Judge of the High Court can be removed on grounds of proved misbehaviour or incapacity by the President of India on an address of the members supported by the majority of members as well as by the two-thirds of the members present and voting in the Lok Sabha and the Rajya Sabha individually.

Q. 8. Writ Jurisdiction of the High Court of the State.

Ans. The High Court has the power to issue writs to a person or an official. It will exercise the writs of *habeas corpus*, *mandamus*, *prohibition*, *certiorari*, and *quo warrant*. Under Article 226, writs are issued to protect the fundamental rights guaranteed to the citizens by the Constitution. The High Court can issue writs for other purposes also—the imposition of a tax, an election dispute of the Constitution. Again, the High Court may declare a law of Parliament or the State Legislature null and void if it encroaches upon the fundamental rights.

Q. 9. High Court's control over the subordinate courts.

Ans. The High Court enjoys the power of superintendence and control over the subordinate courts within its jurisdiction. In exercising the High Court exercises the following powers—

(a) supervising the working of the subordinate courts can be called for

(b) framing the rules for regulating the proceedings of the subordinate courts.

(c) the appointment, posting, and promotion of the District and Sessions Judges are to be made by the Governor in consultation with the High Court.

(d) the High Court can prescribe form in which book entries and accounts shall be kept by the subordinate courts.

Miscellaneous

Q. 1. Composition of the Election Commission in India.

Ans. In India, the Election Commission at present consists of the Chief Election Commissioner and two other Election Commissioners. They are appointed by the President of the Republic. Further, they hold office for six (6) years, or until they attain the age of sixty-five (65) years whichever is earlier. The Chief Election Commissioner or an Election Commissioner can be removed by the President on a report made by the Parliament as supported by two-thirds majority in the Lok Sabha and the Rajya Sabha voting separately. The Chief Election Commissioner and the other two Election Commissioners have equal powers and status in all respects.

Q. 2. Major functions of the Election Commission in India.

Ans. Four major functions are to—

(a) delimit constituencies for elections to the Parliament and the State Legislatures, and also to allot a number of seats to them ;

(b) conduct and supervise the elections and bye-elections to the Parliament and the State Legislatures, and also to the President and the Vice-President of the Republic;

(c) determine criteria for recognising political parties, and also to prepare a list of "free symbols" for allotment to independent candidates; and

(d) prepare guidelines for a code of conduct for political parties, and candidates, and voters.

Q. 3. The role of Caste in Indian politics.

Ans. Caste is a significant element in Indian society under the

impact of modern politics. Caste has been politicised but in the process it has provided to Indian politics the processes and symbols of political articulation. So, it is not that politics uses caste, at the same time caste also uses politics. Indeed it has become one of the means by which the Indian man has been attached to the process of democratic politics. It has been said that caste is the most important political party in India. And appeals for political support on the basis of caste have definitely increased over the years.

Q. 4. Roots of Regionalism in India.

Ans. Roots of regionalism :—

(a) History has contributed to the origin of regionalism doubly, for example, the origin of Shiva Sena is a proof positive contribution, and of U.M.K. a negative one ;

(b) caste has contributed significantly to the growth and development of regionalism. Domination of a single caste in a place leads to violent form of regionalism;

(c) economic root also plays a vital role in the growth of regionalism. There has been an unequal economic development in India. So, the feelings of regionalism originate among the people belonging to the backward areas and they demand States; and

(d) the weakening of the Central authority has helped the regional leaders in enhancing their own authority and power by arousing regional sentiments among the people.

Q. 5. Tribal politics in India.

Ans. In Indian Republic, the tribalism has been a significant decisive factor in our socio-political fields. Modernisation has sharpened inherited social identities.

In free India, three important changes have taken place in our social and political sets—extension of adult franchise, legal outlawing of untouchability, great emphasis on equal protection of laws. And these changes have had substantial effect on the rural tribesmen. Thus tribe is a significant element in Indian society

under the impact of modern politics. The combination of the tribe and the democratic secular process has changed the nature of the political culture in India, imparting to its existing plurality a political connotation. At present, the tribe has been playing an increasingly important role in all political activities—elections, political appointments, party formation etc. Again, the tribe groupings get a chance to assert their identity and to strive for political gain.

POLITICAL SCIENCE-GENERAL THIRD PAPER-2015

FULL MARKS -100

(Only for General Candidates)

Answer Question No. 1 and any four from the rest

1. Write short notes on any four (each within 100 words)

5×4

- (a) Right against Exploitation.
- (b) Difference between Fundamental Rights and Directive Principles of State Policies.
- (c) Article 249 of the Indian Constitution.
- (d) Discretionary powers of the Governor.
- (e) Public Accounts Committee.
- (f) Original Jurisdiction of the Supreme Court.
- (g) Meaning of Regionalism.
- (h) 'Chupko' Movement.

2. India is "Sovereign, Socialist, Secular, Democratic Republic" Explain the statement. 20

3. Analyse the nature of the Right to Freedom of Religion as guaranteed in the Constitution of India. 20

4. Discuss the powers and position of the President of India. 12+8

5. Discuss the role of High Court in the Indian Judicial System. 20

6. Analyse the powers and position of the Chief Minister of an Indian State. 12+8

7. Discuss the procedures for the amendment of the Indian Constitution. 20

8. Discuss the influence of religion in the contemporary Indian Politics. 20

9. Analyse the nature of women's movement in post-independence India. 20

POLITICAL SCIENCE-GENERAL
THIRD PAPER-2015
FULL MARKS -100

(Other than General Candidates)

Answer Question No. 1 and any four from the rest

1. Write short notes on any four each within 100 words)

5×4

- (a) India as 'Secular' state
- (b) Article 14 of the Indian Constitution
- (c) Public Accounts Committee
- (d) Article 249 of the Indian Constitution
- (e) Impeachment of Indian President
- (f) Preventive Detention Act
- (g) Original jurisdiction of the Supreme Court of India
- (h) Composition of the Election Commission of India

2. Discuss the nature of the Right to Freedom as guaranteed in the constitution of India.

30

3. Explain the financial relations between the Centre and States in India.

20

4. Discuss the powers and position of the Prime Minister of India.

15×5

5. Discuss the relations between Lok Sabha and Rajya Sabha in India.

20

6. Discuss the composition and functions of state Legislatures.

8×12

7. Present your views on judicial activism in India with suitable examples.

20

8. Discuss the procedures for the amendment of the Indian Constitution.

20

9. Discuss the ideology and programmes of any one National Political Party of India.

20

POLITICAL SCIENCE (GENERAL)
THIRD PAPER-2014
(Only for General Candidates)
Full Marks—100

Answer Question No. 1 and any four from the rest

1. Write short notes on any four each within 100 words)

5×4

(a) Significance of the Preamble to the Indian Constitution

(b) Article 19 of the Indian Constitution

(c) Veto power of the President

(d) Speaker of the Lok Sabha

(e) Concurrent List

(f) Article 370 of the Indian Constitution

(g) Main functions of the Election Commission

(h) Basic features of women's movement in India

2. Discuss the Right to Equality in the Indian Constitution.

20

3. Examine the nature of Indian federation.

20

4. Analyse the powers and functions of the Prime Minister of India.

20

5. Explain the powers and position of the Governor of an Indian state.

20

6. Discuss the composition and functions of the Supreme Court of India.

20

7. Examine the ideology of a national political party in India.

20

8. Identify the reasons for the emergence of regionalism in contemporary India.

20

9. Analyse the role of caste in Indian politics.

20

POLITICAL SCIENCE (GENERAL) THIRD PAPER—2017

(Other than General Candidates)

Full Marks—100

Answer Question No. 1 and any four from the rest

1. Write short notes on **any four** (each within 100 words) : 5×4

- (a) Article 19 of the Indian Constitution
- (b) Any four Fundamental Duties of the Indian citizens
- (c) Estimates Committee
- (d) Discretionary powers of the Governor of an Indian state
- (e) Removal of High Court judges
- (f) Any two procedures of amending the Constitution
- (g) Definition of a national political party
- (h) Chipko movement.

2. Explain the significance of the Preamble to the Constitution of India. 20

3. Explain the Centre-State administrative relations in India. 20

4. Discuss the powers and position of the President of India. 20

5. Discuss the composition and functions of the Lok Sabha. 20

6. Analyse the powers and position of the Chief Minister of an Indian State. 20

7. Describe briefly the role of Supreme Court in the constitutional system of India. 20

8. Discuss the composition and functions of the Election Commission of India. 20

9. Write a note on women's participation in post-independence Indian politics. 20